

## PROVIDENCE CITY COUNCIL MEETING AGENDA

February 24, 2015 6:00 p.m.

15 South Main, Providence UT

The Providence City Council will begin discussing the following agenda items at 6:00 p.m. Anyone interested is invited to attend.

Call to Order: Mayor Calderwood  
Roll Call of City Council Members: Mayor Calderwood  
Pledge of Allegiance:

### Approval of the minutes

**Item No. 1.** The Providence City Council will consider approval of the minutes of February 10, 2015 City Council meeting.

**Public Comments:** Citizens may appear before the City Council to express their views on issues within the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total time allotted to public comment is 15 minutes. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

### Business Items:

**Cache County Sheriff's Report:** Sheriff Chad Jensen, will report on the services provided by the Cache County Sheriff's Office.

**Item No. 1. Resolution 003-2015.** A resolution approving a land lease agreement with Verizon Wireless (VAW) LLC for a 35-ft x 35-ft parcel located in the city storage yard area adjacent to Alma H Leonhardt park (approximately 310 West 250 North).

**Item No. 2. Ordinance No. 2015-007.** The Providence City Council will consider for adoption an ordinance amending Providence City Code Title 10 Zoning Regulations Chapter 4 Establishment of Districts and Chapter 6 Use Regulations that clarify the Public Use zone. In addition to uses in the Public Use zone, other Use Chart proposed amendments include adding upholstery, pet grooming, and making some changes in the utility and related services section.

**Item No. 3. Ordinance No. 2015-008.** The Providence City Council will consider for adoption an ordinance amending the Providence City zoning district(s) and zoning map by changing the zone of Providence City parks to Public Use (PUB) as follows:

- Alma H Leonhardt Park, 310 West 250 North, AGR to PUB
- Braegger Park, 300 East 300 South, SFT to PUB
- Brookside Park, 450 North 100 East (38 East Spring Creek Parkway), SFH to PUB
- Cattle Corral Park, 100 East 200 South, SFT to PUB
- Hampshire Park, 285 West 575 South, SFT to PUB
- Meadow Ridge Park, 251 South 325 West, AGR to PUB
- Uptown Park, 100 East 100 North, CGD to PUB
- Von Baer Park, 350 East Center, SFT to PUB
- Zollinger Park, 61 North 200 West, CGD to PUB

**Item No. 4. Ordinance No. 2015-003.** The Providence City Council will consider for adoption an

ordinance amending Providence City Code Title 4 Chapter 1 Nuisances including but not limited to adding: Words, Terms, and Phrases; amending Duty of Maintenance of Private Property by adding requirements regarding ditches, waterways, and compost piles; amending Storage of Personal Property by adding: outdoor furniture restrictions, and unsheltered inoperable motor vehicle restrictions.

**Staff Reports:** Items presented by Providence City Staff will be presented as information only.

**Council Reports:** Items presented by the City Council members will be presented as informational only; no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

**Executive Session:**

Item No. 1. The Providence City Council may enter into a closed session to discuss land acquisition or the sale of real property Utah Code 52-4-205(1) (d) and (e).

Item No. 2. The Providence City Council may enter into a closed session discuss pending litigation Utah Code 52-4-205(1) (c).

Item No. 3. The Providence City Council may enter into a closed session as allowed by Utah Code 52-4-205(1) (a)

Agenda posted the 19 day of February 2015.

  
Skarlet Bankhead  
City Recorder

If you are disabled and/or need assistance to attend council meeting, please call 752-9441 before 5:00 p.m. on the day of the meeting.

Pursuant to Utah Code 52-4-207 Electronic Meetings – Authorization – Requirements the following notice is hereby given:

- Providence City Ordinance Modification 015-2006, adopted 11/14/2006, allows City Council member(s) to attend by teleconference.
- The anchor location for this meeting is: Providence City Office Building, 15 South Main, Providence, UT.
- Member(s) will be connected to the electronic meeting by teleconference.



1 **PROVIDENCE CITY COUNCIL MEETING**

2 **15 South Main, Providence UT**

3 **February 10, 2015 6:00 pm**

4  
5 Call to Order: Mayor Calderwood  
6 Roll Call of City Council Members: Mayor Calderwood  
7 Attendance: B Bagley, Jeff Baldwin, R Call, J Drew, J Russell  
8 Pledge of Allegiance: Josh Harrison, Scout Troop 85  
9

10 **Approval of the minutes**

11 **Item No. 1.** The Providence City Council will consider approval of the minutes of January 27, 2015 City  
12 Council meeting.

13 **Motion to approve the minutes with the following changes: J Russell, second – J Baldwin**

- 14 • Page 2, Line 4 walking tour and pamphlet revamp
- 15 • Page 2, Line 24 - second, J Drew
- 16 • Page 2, last line – piggybacking power, Verizon increased rent income on tower so shall the city.
- 17 • Page 3, Line 29-32 – combine and clarify comment of J Russell
- 18 • Page 4, Line 37 – insert word lateral on S Bankhead's comments – Spring Creek laterals are the
- 19 responsibility of Spring Creek Water Company.
- 20 • Page 5, Line 3 – S Bankhead question about runoff from roof, runoff is not water being pumped
- 21 into a ditch.
- 22 • Page 5, Line 21 – Suzie Becker
- 23 • Page 5, Line 25 – Alternatives to a pipeline to use reclaimed water for irrigation water. Rather
- 24 than build a pipeline an arrangement can be made with Hyrum where they keep a portion of
- 25 Providence reclaimed water in exchange for some of their water out of the Blacksmith.
- 26 • Page 6, Line 30 – had been asked by Mayor to draft resolution.
- 27 • Page 6, Line 31 Curt not Kurt, Skarlet was in attendance at meeting.
- 28 • Add "above" to motion to enter ex session.

29 **Vote: Yea: B Bagley, J Bladwin, R Call J Drew, J Russell**  
30 **Nay: None**  
31 **Excused: None**  
32 **Abstained: None**

33 **Item No. 2.** The Providence City Council will consider approval of the minutes of January 20, 2015 Joint  
34 Council meeting with Hyrum City and Nibley City.

35 **Motion to approve minutes of Nibley joint council meeting of January 20, 2015: B Bagley, second – J**  
36 **Drew**

- 37 • B Bagley held on Tuesday not Thursday, 2015 throughout document.
- 38 • Stephanie Miller's call to order needs time change.
- 39 • Page 3 - J Baldwin - Park city should be Summit Park and treatment plant in Jeremy Ranch.
- 40 • Page 4 - B Bagley add Eck to Randy's last name.

41 **Vote: Yea: B Bagley, J Bladwin, R Call J Drew, J Russell**  
42 **Nay: None**  
43 **Excused: None**  
44 **Abstained: None**  
45

46 **Public Comments:** Citizens may appear before the City Council to express their views on issues within  
47 the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per

1 person. The total time allotted to public comment is 15 minutes The City Council may act on an item, if it  
2 arose subsequent to the posting of this agenda and the City Council determines that an emergency  
3 exists.

- 4 • Chris Checketts – Owner of Custom Countertops. He did not force Providence City to give a  
5 commercial building permit. January 13 meeting saw a process that was followed to gain a  
6 commercial zoning variance. Questions for the city that he would like on agenda for next  
7 meeting: What does the City hope to gain? Who runs the city? Why is fire chief continuing to  
8 inspect building? Who added word “shed” to his permit? How many ordinances have been  
9 changed over the last six years that affect his business in a negative way? Received letter from  
10 “the City” many times over the past years. Would like to know who “the city” is. Distributed  
11 copies of tax records that state a change from a secondary building to a commercial building. He  
12 comments he makes counter tops and would like to continue to do that. Copy of his notes  
13 attached to minutes.

14  
15 **Audit Report:** MacRay Curtis, WSRP LLC, reviewed the City of Providence Financial Statements June 30,  
16 2014

- 17 • MacRay Curtis CPA firm WSRP, reviewed the audit. Feels like financial reporting is in order.  
18 Finances of the city are healthy.
  - 19 ○ First Finding – General fund is in excess of what state law allows. Monies can be  
20 transferred to the Capital Projects Fund and needs to show which projects the monies  
21 will be used for.
  - 22 ○ Second finding - Utah Public Finance Website – The city is required to submit finances  
23 on a quarterly basis.
  - 24 ○ Third finding – Open and Public Meetings Act – law requires the purpose of closed  
25 meetings be disclosed and the vote be recorded.

26 **Item No. 1 Resolution 002-2015:** The Providence City Council will consider for adoption a resolution  
27 appointing Heather Hansen as an alternate member of the Providence City Planning Commission.

28 **Motion to appoint Heather Hansen as an alternate member of Providence City Planning Commission: J**  
29 **Russell, second – J Baldwin**

- 30 • Mayor commented that he has talked to several people and Heather was gracious enough to  
31 accept.
- 32 • H Hansen – Providence resident for 17 years. Married 22 years to husband who grew up in  
33 Providence, has 5 children. Involved in PC and city council on issues that have an interest to her  
34 such as library being part of county wide library system, recent rezone request and rezone of  
35 Baer Welding.
- 36 • J Russell asked if she could make the time commitment. Heather felt she could. He commented  
37 that at times city council has gone against the recommendations of PC and asked how she felt  
38 about that. She commented that while PC would like recommendations to be followed, she  
39 knows that does not always happen.
- 40 • B Bagley asked how she gathered names for the list of residents opposed to the recent rezone.  
41 She said when she found out about the proposed rezone she took the initiative to contact  
42 neighbors and get signatures. She would like more growth and more commercial businesses, but  
43 it needs to be managed. She is inclined to create buffer zones between residential and  
44 commercial zones, but does not oppose growth. She comments that she has been somewhat  
45 disappointed with Logan’s northwest area where there are so many apartment complexes and  
46 would like to see more permanent residential.
- 47 • H Hansen commented that she homeschools her children, is very good at research, is often  
48 consulted for information on getting children in college. She has a considerable amount of

education through life experiences. She is familiar with requirements for homes as far as zoning is concerned. Broad range of education. Her husband is supportive of her being on the Planning Commission.

- J Drew commented that PC is going through major planning and review of the city. Asked if Heather had any thoughts on the general plan/transportation corridor update.
- J Baldwin commented that he was impressed with her getting neighbors out to oppose the latest rezone petition. He liked that she was proactive in protecting her neighborhood.

**Vote:** Yea: B Bagley, J Bladwin, R Call J Drew, J Russell  
Nay: None  
Excused: None  
Abstained: None

Mayor commented that 5 of the 6 PC members live in the same general area and he has a concern about that. He would like to see more candidates outside that geographical area on the PC.

**Item No. 2. CLG Grant Proposal.** The Providence City Council will consider a proposal from the Providence City Historic Preservation Commission to apply for a 2015 Certified Local Government (CLG) grant.

- J Russell's reminded the council of how this grant works with the city matching the grant funds.
- C McGrath said she approached Kathleen Alder about using funds from Pioneer Heritage Corporation. Kathleen had reservations about donating funds but said she would talk to her committee about helping with fundraising. Kathleen wanted a say in how the funds were spent. This was a concern for Chalene who felt HPC is a very much unbiased commission and isn't sure how that would impact their choices for HPC work.
- J Baldwin felt citizens ought to help out with fund raising. He felt a \$1.50 donation from each household would cover costs. Citizens could also do in kind donations. Soliciting funds/services from residents should be the first option. He also felt the University could be used as a resource.
- R Call felt the people who make donations should not be allowed to express bias on funds used. Identify the project, then use funds raised.
- Mayor had questions about using Historical Society funds versus private donations.
- S Bankhead said there isn't a conflict as long as projects are identified. The donations need to come without strings attached. Donations are more difficult to get if there is not a tangible project. If the goal is just to have a history done, then private donations are fine. If the goal is for being on the National Historic Register, then the city is limited to using the people the state says are qualified to do the intensive level surveys.
- C McGrath said the grant has to be applied for by the 13<sup>th</sup> of February.
- J Russell commented that in the presentation at last meeting there were things talked about that he was unaware of, such as the railroad and some of the commercial buildings that were discussed. He felt it is a worthwhile project and favors applying for the grant.
- H Christensen said the money is allocated and if Providence doesn't apply for and get the grant, then someone else will.
- C McGrath said the grant money could be used for the proposed intensive level surveys and the donations could be used for the bell project at the elementary school since it doesn't qualify for the grant.
- R Call suggested ways to get the donations.
- B Bagley commented that since these funds are allocated we should take advantage of our own tax monies. He feels the citizens could also be involved with in-kind type of donations.

**Motion to approve the proposal for HPC to apply for the grant with a commitment of \$3,000 from the city: J Russell, second – J Baldwin**



1 **Vote: Yea: B Bagley, J Baldwin, J Drew, J Russell**  
2 **Nay: R Call**  
3 **Excused: None**  
4 **Abstained: None**  
5

6 **Item No. 3. Resolution 003-2015.** A resolution approving a land lease agreement with Verizon Wireless  
7 (VAW) LLC for a 35-ft x 35-ft parcel located in the city storage yard area adjacent to Alma H Leonhardt  
8 park (approximately 310 West 250 North).

9 **Motion to approve Resolution 003-2015 land lease agreement with Verizon wireless: J Baldwin,**  
10 **second – B Bagley**

- 11 • Nefi Garcia, agent for Verizon Wireless, discussed issues brought up at last meeting with  
12 Verizon. Verizon needs a 15 year commitment, after the 15<sup>th</sup> year the city has a right to disallow  
13 them with an 18 month period for them to move out.
- 14 • B Bagley said terms need to be cleaned up as well as other language in the draft. How do the  
15 taxes get assessed/paid?
- 16 • N Garcia said the county assesses the tax. The tax will be paid by the city and then reimbursed  
17 by Verizon. Verizon will not have a separate tax number.
- 18 • S Bankhead said Verizon will be assessed for personal property.
- 19 • B Bagley brought up the possibility of Verizon not being in compliance and being unable to  
20 address compliance issues. The coexistence on the pole is not in the lease. Sublease rights need  
21 to be included.
- 22 • N Garcia said it will be put in there. The main concern was the termination rights.
- 23 • R Call said there are two issues that need to be addressed: termination rights and escalation of  
24 interest/rent payments.
- 25 • J Baldwin had a question about termination if Verizon cannot come into compliance.
- 26 • B Bagley said Verizon is under an obligation and has time to come into compliance. However, if  
27 they choose not to, they can terminate, but there would be repercussions.
- 28 • B Bagley asked about liability insurance. Randy said we have to have insurance on our property,  
29 but Verizon has to have insurance for their property. Verizon will have requirements. This is a  
30 joint deal with risks and benefits involved for both parties.
- 31 • J Russell would like to see the actual verbiage on paper to make sure the issues are resolved  
32 before the agreement is signed.
- 33 • J Baldwin agrees there needs to be a 5 year renewal, but feels the city needs options at the end  
34 of every 5 years. Two years to continue operations if the city orders Verizon to vacate, one year  
35 of rent if Verizon leaves the city.
- 36 • B Bagley asked why the city would ever want Verizon to vacate.
- 37 • R Call felt one reason to want Verizon to leave would be rent escalation concerns in the future, if  
38 Verizon does not keep the property clean, possible health concerns that may arise in the future.
- 39 • R Eck said the property is destined to be a park, but that corner is a bone yard right now and  
40 with a cell tower it would be fenced in and landscaped.
- 41 • R Call said he favors the cell tower, but is not comfortable with the agreement as is.
- 42 • N Garcia said Verizon needs a 15 year lease, with the city option to terminate after that with an  
43 18 month notice. If Verizon terminates before that, they will pay a one year payment at buyout.  
44 He offered \$900/month and 10% return inflation.
- 45 • J Baldwin - accept the \$900/month, accept the 15 year lease, then at the end of that 15 years if  
46 the city wants Verizon out give an 18 month notice (after third term). If Verizon walks between  
47 one and 15 years, they pay one year payment and clean/restore the site.

- Health concerns were discussed.
- N Garcia said the federal government has to decide if health issues are a big enough concern to close the tower down.
- R Eck said the tower is 100 feet tall.
- R Call feels the rent rate is still an issue. He would like a price index to set the rates. The rates are adjusted working backwards, not forward and while that works for the first five years, it may be problematic for the next two terms if inflation rates go too high.
- N Garcia said Verizon will not accept an index.
- J Baldwin suggested increasing monthly rent to compensate for losses that may incur. 15 years at \$1,200/month, guaranteed 15 years to Verizon with no increase in payments, 18 month notice at or after 15 years if City does not want to renew contract, and Verizon can leave when they choose with a penalty payment of one year's rent. He felt this was a good deal for the city.

**Motion to approve Resolution 003-2015 land lease agreement with Verizon with the following conditions: 15 years at \$1,200/month, guaranteed 15 year lease, 18 month notice at or after 15 years if City does not want to renew contract, and Verizon can leave when they choose with a penalty payment of one year's rent: J Baldwin, second – J Drew**

**Vote: Yea: J Baldwin, J Drew, J Russell**

**Nay: R Call, B Bagley**

**Excused: None**

**Abstained: None**

N Garcia - Verizon will probably do \$1,200/month, but they might not agree to the one year termination payment. Verizon needs to be here for 15 years.

**Item No. 4. Ordinance 2015-006.** The Providence City Council will consider for adoption an ordinance amending Providence City Code Title 5 Police Regulations, Chapter 1 Animal Control Regulations, Section 9 Bees.

**Motion to approve Ordinance 2015-006: R Call, second – J Drew**

- Bryan Williams, beekeeper, President of Cache Valley Beekeepers Assn., lives in Providence, has licensed business in Providence, keeps bees in back yard. These regulations apply to the small bee keepers – 1 to 10 hives. Providence has good bee keeping regulations. The proposed changes appear to be an attempt to simplify, but he has concerns. State law has requirements that are not being met with the proposed changes. Would like to see:
  - 1. License with state - \$10 for up to 50 hives. This helps the state regulate the diseases.
  - 2. Section A – removable frames – feels the type of hive should be clarified more.
  - 3. Section B – all apiaries must be located 20' from property line. Not all properties can do that. Would like to allow addition of "or 6' barrier".
  - 4. Section C - Good neighbor policy – needs a statement about providing a convenient source of water. Bees need water, if it's not provided it could be problematic for neighbors. Limit up to 4 hives.
- J Baldwin - item C wants to make sure the water is supplied. Could pose a problem for neighbors if there is no water source and bees have to go to neighbor's yard. Bees kept in city can very easily become a nuisance, especially for those allergic to bee stings.

**Amended motion 2015-006 to add the following: Paragraph A. bee colonies to be kept in hives "with removable frames" keep the rest as is, B – all apiaries to be kept 20' or more from property line, if not 20 feet beekeeper required to maintain 6' barrier or vegetation that necessitates bees fly above it, C - beekeeper ensure an available source of water at all times, follow state regulation for licensing: R Call, second - J Russell**

- J Baldwin has concerns about 4 colonies. Feels it is too many. Would like to see limit of 2

colonies.

- B Williams said bees will travel usually up to 2 miles, in a bad year up to 3. Most honey bees do not sting, 90% of stings usually come from yellow jackets.

**Vote: Yea: B Bagley, R Call, J Drew, J Russell**

**Nay: J Baldwin**

**Excused: None**

**Abstained: None**

**Item No. 5. Resolution 005-2015.** The Providence City Council will consider for adoption a resolution adopting the Providence City Sanitary Sewer Management Plan.

**Motion to adopt resolution 005-2015: J Baldwin, second – B Bagley**

- R Eck – Using Leland Meyer’s template, customized to Providence City, serves purpose of what we are required to do. Randy is very comfortable with the plan. This makes us compliant with state regulations.
- J Russell asked about soil and sand management fees. Randy said currently we do not have any. It is handled at the treatment plant, which currently is Logan. “X” means “to be determined.”

**Vote: Yea: B Bagley, J Baldwin, R Call J Drew, J Russell**

**Nay: None**

**Excused: None**

**Abstained: None**

**Item No. 6. Resolution 006-2015.** The Providence City Council will consider for adoption a resolution accepting the Northern Cache Valley Storm Water Design Standards.

**Motion to adopt resolution 006-2015: J Russell, second – R Call**

- R Eck – this insures cities are compliant with the state. Gives developer or contractor same standards in all municipalities. Max Pearce, City Engineer who also had input in this plan, feels it makes detention and retention ponds too big, but that concern can be addressed in each city with city engineer.
- J Russell would like to be made aware if there are deviations from this standard.
- R Eck said the majority of ponds in this city would be larger than they currently are if these standards had been in place. He will let the council know when deviations occur.

**Vote: Yea: B Bagley, J Baldwin, R Call J Drew, J Russell**

**Nay: None**

**Excused: None**

**Abstained: None**

**Item No. 7. Resolution 004-2015.** The Providence City Council will consider for adoption a resolution approving and agreement with Spring Creek Water Company allowing the City to use its shares during the months of April and October.

**Motion to approve Resolution 004-2015: J Baldwin, second – B Bagley**

- Mayor said discussion is limited to Council and Acting President of SCWC, Brent Speth.
- B Speth said months of April and October - no exchange can take place if no water is available. When it is available, in order to assist the city in providing water during that time, water can be used out of Broad Hollow Spring in April and October, water that can be used when irrigation is down. In turn, the city needs to put the water to beneficial use, hence the agreement.
- Mayor - SCWC said if the water is available, they want to be able to offer 23% of 16 ½ cfs. They will offer it to the city.
- B Speth there is a limitation on this. Change applications have to be submitted on the water



1 shares in order to use irrigation water for municipal use, but its 23% of the total excess. This  
2 gives you allowable use of all water not being used by irrigators but it is not a guarantee of 23%  
3 of 16 ½ cfs. It is dependent upon demand of irrigators at that time.

- 4 • R Call asked when Spring Creek turns water into the laterals.
- 5 • B Speth said generally laterals are not supplied if there is not a need. Shareholders can request  
6 water as needed.
- 7 • B Bagley asked how excess water is determined.
- 8 • R Call said shareholders get the water first, then what is left over is considered excess water and  
9 available to the city.
- 10 • R Call said this agreement doesn't allow the city to use its 23% for culinary use if there are  
11 people using irrigation shares does it, during April and October?
- 12 • B Speth said nobody is allowed to water for an extended period of time or have a continuous  
13 flow of water. They get the water when it is their turn.
- 14 • R Call had a concern about being able to use irrigation water as municipal water for those two  
15 months.
- 16 • B Speth said a change agreement is needed to convert from irrigation to municipal use.
- 17 • Mayor feels this is a good agreement and does not hurt any of the shareholders. It also benefits  
18 the city.
- 19 • This is a one year agreement.

20 **Vote: Yea: B Bagley, J Bladwin, R Call J Drew, J Russell**

21 **Nay: None**

22 **Excused: None**

23 **Abstained: None**

24  
25 **Staff Reports:** Items presented by Providence City Staff will be presented as information only.

- 26 • R Eck: Report was emailed.
  - 27 ○ J Drew asked about projects that were prioritized and when capital projects are going to  
28 start.
  - 29 ○ S Bankhead said some money was used last year, but not enough. The rest of the money  
30 has to be moved before June 30.
  - 31 ○ B Bagley asked about Hampshire Park.
  - 32 ○ R Eck said the pumps, pumping screen apparatus and aerators are purchased, just  
33 waiting on the weather to install them.
- 34 • S Bankhead: Report was email. Contains invoice register for January 2015. Did not send out deer  
35 survey report. Seventy-two responses to survey so far. Reviewed the survey.
  - 36 ○ B Bagley asked about feeding the deer.
  - 37 ○ Mayor would like to get the deer fence fixed first, then add an amendment about  
38 feeding the deer.
  - 39 ○ B Bagley asked about late home business license renewal. S Bankhead said there are  
40 some who will pay late.

41  
42 **Council Reports:** Items presented by the City Council members will be presented as informational only;  
43 no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting  
44 of this agenda and the City Council determines that an emergency exists.

- 45 • J Russell - meeting with parks and rec staff Thurs to plan summer programs.
- 46 • J Baldwin handed out his rewrite of part of the nuisance ordinance. Did some research of what  
47 other cities are doing and restructured the first two thirds of the document. This will be covered  
48 at next council meeting.

- 1 • R Call – reported on meeting for the car show. It was decided to go forward with the car show  
2 and is putting together a committee.
- 3 • J Drew – transit district –state code governing transit district as well as CVTD bylaws. Reviewed  
4 some of the code. Logan has about half the population in the county that pays taxes, but about  
5 70% of the vote. River Heights, Providence and the County combined get one vote. N Logan is  
6 one vote; Smithfield, Richmond, Lewiston and Hyde Park have one combined vote. Logan gets 9  
7 votes. On the Providence, River Heights, County vote, the vote goes in favor of the majority, so  
8 Providence really only has 1/3 of a vote. State code requires they employee an internal auditor,  
9 they don't. J Drew has a copy of audit done on UTA by State legislative auditor. Issues are the  
10 salary issue, state code creates a transit district and CVTD has a mission statement that expands  
11 its role beyond what state code defines it. On the transportation tax being discussed, CVDT has  
12 approached state legislators for a piece of the pie.
- 13 • B Bagley commented on sewer rates published in the paper.
- 14 • Mayor said the information in paper is incomplete. In 2014 Providence paid Logan \$531,000 for  
15 sewer. Between 2008 and 2012 rates have almost doubled. We need to pursue the inter-local  
16 between Providence, Hyrum and Nibley.
  - 17 ○ 24<sup>th</sup> of February Mayors will go to Salt Lake to meet with Water Quality Control Board to  
18 ask for restrictions on the \$70 million loan to Logan.
  - 19 ○ Handed out inter-local agreement (draft) with Logan.
  - 20 ○ Went with J Russell on Saturday morning to the state legislature meeting. CVDT are  
21 actively pursuing funds.

22  
23 Council did not go into executive session.

24  
25 **Motion to close meeting: J Baldwin, second – R Call**

26 **Vote: Yea: B Bagley, J Bladwin, R Call J Drew, J Russell**  
27 **Nay: None**  
28 **Excused: None**  
29 **Abstained: None**  
30  
31  
32  
33

34 \_\_\_\_\_  
35 Don W. Calderwood, Mayor

\_\_\_\_\_  
Skarlet Bankhead, City Recorder

## Resolution 003-2015

A RESOLUTION APPROVING A LAND LEASE AGREEMENT WITH VERIZON WIRELESS (VAW) LLC FOR A 35-FT X 35-FT PARCEL LOCATED IN THE CITY STORAGE YARD AREA ADJACENT TO ALMA H LEONHARDT PARK (APPROXIMATELY 310 WEST 250 NORTH).

WHEREAS Providence City desires to enter into the attached land lease agreement with Verizon Wireless (VAW) LLC.

- The City Council has reviewed the attached agreement and received comment from Craig Call, City Attorney.
- The City Council has met with Nefi Garcia, an agent for Verizon Wireless (VAW).

THEREFORE be it resolved by the Providence City Council:

- The attached agreement shall be approved with the following changes discussed during this meeting:
- **15 years at \$1,200 / month; guaranteed 15 year lease; 18 month notice at or after 15 years if the City does not want to renew the contract; Verizon can leave when they choose with a penalty payment of one year rent.**
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this **25** day of February, 2015.

### Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

---

Don W Calderwood, Mayor

Attest:

---

Skarlet Bankhead, Recorder





DRAFT

LAND LEASE AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between 201, between Providence City, with its principal offices located at 15 South Main Street, Providence, Utah 84332, hereinafter designated LESSOR and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the Property), located at [ADDRESS], [MUNICIPALITY], [COUNTY], [STATE] in Providence, County of Cache, State of Utah, and being described as a 35' by 35' parcel containing 1,225 square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a     (     ) foot wide right-of-way extending from the nearest public right-of-way,    , to the Land Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof. ~~The Property is also shown on the Tax Map of the City of \_\_\_\_\_ as Block \_\_\_\_\_, Lot \_\_\_\_\_ and is further described in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_ as recorded in the Office of \_\_\_\_\_.~~

In the event any public utility is unable to use the Rights of Way, due to actions or decisions by the LESSOR, the LESSOR hereby agrees to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and the Premises, and said survey shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL.

~~PLEASE NOTE THERE ARE FOUR DIFFERENT ALTERNATTIVES OF SECTION 3a BELOW. PLEASE SELECT ONLY ONE AS APPROPRIATE AND DELETE THE OTHER ALTERNATIVES.~~

~~1. Use if commencement upon installation of equipment:~~

~~a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the~~

±

1

UTL PROVIDENCE

12/18/2014

DWT ~~24117223~~ 24117249 v1 0052051-000032

DWT 25554672 v1 0052051-000031



DRAFT

~~Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid in equal monthly installments on the first day of the month, in advance, to \_\_\_\_\_ or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE commences installation of the equipment on the Premises. In the event the date LESSEE commences installation of the equipment on the Premises falls between the 1<sup>st</sup> and 15<sup>th</sup> of the month, the Agreement shall commence on the 1<sup>st</sup> of that month and if the date installation commences falls between the 16<sup>th</sup> and 31<sup>st</sup> of the month, then the Agreement shall commence on the 1<sup>st</sup> day of the following month (either the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after a written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 13.~~

~~Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.~~

~~**2. Use if commencement upon building permit or date of execution, whichever is later:**~~

~~a. — This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid in equal monthly installments on the first day of the month, in advance, to \_\_\_\_\_ or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, or the date of execution of the Agreement by the Parties, whichever is later. In the event the date at which LESSEE is granted a building permit or the date of execution of the Agreement, whichever is applicable, falls between the 1<sup>st</sup> and 15<sup>th</sup> of the month, the Agreement shall commence on the 1<sup>st</sup> of that month and if such date falls between the 16<sup>th</sup> and 31<sup>st</sup> of the month, then the Agreement shall commence on the 1<sup>st</sup> day of the following month (either the "Commencement Date"). LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 1.~~



DRAFT

~~Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.~~

~~3. Use if commencement upon installation of equipment or date certain which occurs first. Inserted date certain must be 1<sup>st</sup> of the month:~~

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of ~~\_\_\_\_\_ Dollars (\$\_\_\_\_\_)~~ \$9,600.00 to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE commences installation of the equipment on the Premises, or on the first day of ~~\_\_\_\_\_~~ (INSERT MONTH AND YEAR) following twelve (12) months after execution, whichever occurs first. In the event the date of commencing installation of equipment is determinative and such date falls between the 1<sup>st</sup> and 15<sup>th</sup> of the month, the Agreement shall commence on the 1<sup>st</sup> of that month and if such date falls between the 16<sup>th</sup> and 31<sup>st</sup> of the month, then the Agreement shall commence on the 1<sup>st</sup> day of the following month (either of the foregoing or ~~\_\_\_\_\_~~ the first day of the following twelve (12) months after execution, if applicable, being the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date in the event the Commencement Date is based upon the date LESSEE commences installation of the equipment on the Premises. In the event the Commencement Date is the fixed date set forth above, there shall be no written acknowledgement required. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date or after a written acknowledgement confirming the Commencement Date, if such an acknowledgement is required. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and no written acknowledgement confirming the Commencement Date is required, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 1, and if the Commencement Date is January 1 and a required written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 13.

~~Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.~~

~~4. Use if commencement upon a date certain:~~

~~a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the~~



DRAFT

~~Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid in equal monthly installments on the first day of the month, in advance, to \_\_\_\_\_ or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence on the first day of \_\_\_\_\_ (INSERT MONTH AND YEAR) ("Commencement Date"). LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 1.~~

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LESSEE in LESSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to LESSEE shall be a prerequisite for the payment of any rent by LESSEE and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments until Rental Documentation has been supplied to LESSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.



DRAFT

4. EXTENSIONS. This Agreement shall automatically be extended for ~~four~~three (4)3 additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

5. EXTENSION RENTALS. The annual rental for the first (1st) five (5) year extension term shall be increased to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) \$10,560.00; the annual rental for the second (2nd) five (5) year extension term shall be increased to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) \$11,616.00; and the annual rental for the third (3rd) five (5) year extension term shall be increased to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_); ~~and the annual rental for the fourth (4th) five (5) year extension term shall be increased to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) \$12,777.60.~~

6. ADDITIONAL EXTENSIONS. ~~If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. Annual rental for each such additional five (5) year term shall be equal to the annual rental payable with respect to the immediately preceding five (5) year term. The initial term and all extensions shall be collectively referred to herein as the "Term".~~ [INTENTIONALLY DELETED]

7. TAXES. LESSEE shall have the responsibility to pay any and all personal property, real estate taxes, assessments, or charges owed on the Property ~~which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements~~, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property ~~Property~~ which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. ~~LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property.~~ Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. ~~Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.~~



DRAFT

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

8. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; (iv) LESSEE determines that any soil boring tests are unsatisfactory; (v) LESSEE determines that the Premises is no longer technically compatible for its use, or (vi) LESSEE, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.



DRAFT

9. INDEMNIFICATION. Subject to Paragraph 10 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

10. INSURANCE.

a. Notwithstanding the indemnity in ~~section 10,~~Paragraph 9, the Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LESSEE will maintain at its own cost;

~~i.~~ i. Commercial General Liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence.

~~ii.~~ ii. Commercial Auto Liability insurance on all owned, non-owned and hired automobiles with a minimum combined limit of not less than one million (\$1,000,000) per occurrence.

~~iii.~~ iii. Workers Compensation insurance providing the statutory benefits and not less than one million (\$1,000,000) of Employers Liability coverage.

LESSEE will include the LESSOR as an additional insured on the Commercial General Liability and Auto Liability policies.

c. LESSOR will maintain at its own cost commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LESSOR will include the LESSEE as an additional insured.

DRAFT

~~The following is an alternative section e in the event the Premises is part of a purely rural Property. The following is only to be used if there is objection by LESSOR to obtaining insurance.~~

~~d. LESSOR hereby acknowledges that all portions of the Property within three hundred feet (300') of the Premises (hereinafter referred to as the "Insurance Buffer") are currently being used solely for agricultural, forestry or non-commercial purposes. In the event that the current use of the Insurance Buffer changes during the Term, LESSOR agrees that at such time and in the future, and at its own cost and expense, each will maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence.~~

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 9 and 29, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

~~12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LESSOR. INTENTIONALLY DELETED.~~

13. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance

8

8

UTI PROVIDENCE

12/18/2014

DWT 24117223 24117249 v1 0052051-000032

DWT 25554672 v1 0052051-000031



DRAFT

with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, LESSEE holds over in violation of Paragraph 14 and this Paragraph 15, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall be equal to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. RIGHT OF FIRST REFUSAL. If LESSOR elects, during the Term (i) to sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. ~~For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale of the Property for which LESSEE has any right of first refusal.~~

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the

**DRAFT**

Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties,

~~10~~

10

UTL PROVIDENCE

12/18/2014

DWT 2411722324117249v1 0052051-000032

DWT 25554672v1 0052051-000031



DRAFT

this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder. LESSEE may sublet the Premises within its sole discretion, upon notice to LESSOR. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: Providence City  
15 South Main Street  
Providence, UT 84332  
Telephone: (435) 752-9441

LESSEE: Verizon Wireless (VAW) LLC  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

25. SUBORDINATION AND NON-DISTURBANCE. ~~Delete the first sentence of this paragraph if SNDAs for all existing encumbrances are obtained prior to Lease execution. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property.~~ At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement ~~for~~

DRAFT

~~LESSEE's benefit~~ in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

26. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days



DRAFT

in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE. If LESSEE so performs any of LESSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LESSEE shall immediately be owing by LESSOR to LESSEE, and LESSOR shall pay to LESSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LESSOR, LESSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LESSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LESSEE.

29. ENVIRONMENTAL.

a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any



DRAFT

way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.

b. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by LESSEE.

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, ~~provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises~~, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. ~~Notwithstanding the foregoing, the~~The rent shall not abate during the period of repair following such fire or other casualty ~~in proportion to the degree to which LESSEE's use of the Premises is impaired.~~

31. ~~CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally~~



DRAFT

~~set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.~~ [INTENTIONALLY DELETED].

32. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:

By: Providence City

15  
15

UTI PROVIDENCE  
12/18/2014

DWT 2411722324117249v1 0052051-000032  
DWT 25554672v1 0052051-000031

DRAFT

By: \_\_\_\_\_

WITNESS \_\_\_\_\_

Its: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

LESSEE: Verizon Wireless (VAW) LLC  
d/b/a Verizon Wireless

By: \_\_\_\_\_

WITNESS \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Name: Brian Mecum

Title: Area Vice President Network

Date: \_\_\_\_\_

Date: \_\_\_\_\_



DRAFT

EXHIBIT "A" (Page 1 of 2)  
Legal Description

PARCEL 1: 02-091-0012

PART OF LOTS 2 AND 3, BLOCK 34, PLAT "A" PROVIDENCE FARM SURVEY DESCRIBED AS FOLLOWS:

BEGINNING 40 RODS NORTH OF THE SOUTHEAST CORNER OF LOT 3 AND RUNNING THENCE NORTH 5.25 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 5.25 CHAINS; THENCE EAST 10 CHAINS TO THE PLACE OF BEGINNING.

SUBJECT TO A 1 ROD RIGHT OF WAY OVER THE WEST 1 ROD OF SAID PROPERTY..

ALSO:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID LOT 2, AND RUNNING THENCE EAST TO A POINT 483 FEET WEST OF THE NORTHWEST CORNER OF LOT 4, BLOCK 16, PLAT "A" PROVIDENCE TOWNSITE SURVEY (BEING THE EAST LINE OF THE ABANDONED UTAH IDAHO CENTRAL RAILROAD CORPORATION RIGHT OF WAY) THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID ABANDONED RIGHT OF WAY TO A POINT 553 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH TO BEGINNING; BEING SITUATE IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN.

EXCEPTING THEREFROM THE WEST 3 ACRES PREVIOUSLY DEEDED TO PROVIDENCE CITY IN BOOK 450 AT PAGE 417 IN THE OFFICE OF THE RECORDER OF CACHE COUNTY, UTAH.

EXCEPTING THEREFROM THE EASTERLY 110.21 AS RECORDED IN A DEED RECORDED JULY 18, 2000 IN BOOK 954 AT PAGE 193 IN THE OFFICE OF THE RECORDER OF CACHE COUNTY, UTAH.

PARCEL 2: 02-091-0034

PART OF LOTS 2 AND 3, BLOCK 34, PLAT "A" PROVIDENCE FARM SURVEY DESCRIBED AS FOLLOWS:

THE WEST 3 ACRES OF THE FOLLOWING DESCRIBED PARCEL;

BEGINNING 40 RODS NORTH OF THE SOUTHEAST CORNER OF LOT 3 AND RUNNING THENCE NORTH 5.25 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 5.25 CHAINS; THENCE EAST 10 CHAINS TO THE PLACE OF BEGINNING.

SUBJECT TO A 1 ROD RIGHT OF WAY OVER THE WEST 1 ROD OF SAID PROPERTY.

ALSO:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID LOT 2, AND RUNNING THENCE EAST TO A POINT 483 FEET WEST OF THE NORTHWEST CORNER OF LOT 4, BLOCK 16, PLAT "A" PROVIDENCE TOWNSITE SURVEY (BEING THE EAST LINE OF THE ABANDONED UTAH IDAHO CENTRAL RAILROAD CORPORATION RIGHT OF WAY) THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID ABANDONED RIGHT OF WAY TO A POINT 553 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH TO BEGINNING; BEING SITUATE IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN.

Tax ID: 02-091-0012 and 02-091-0034



DRAFT

EXHIBIT "A"(Page 2 of 2)  
Description of Premises

See attached.

DRAFT

FILED FOR RECORD AT REQUEST OF

Exhibit "A"

AND WHEN RECORDED RETURN TO:

Davis Wright Tremaine LLP

Attn: C. Eng

777 108<sup>th</sup> Avenue NE, Suite 2300

Bellevue, WA 98004-5149

---

Space above this line is for Recorder's use.

Memorandum of Land Lease Agreement

<u>Grantor:</u>	<u>Providence City</u>
<u>Grantee:</u>	<u>Verizon Wireless (VAW) LLC d/b/a Verizon Wireless</u>
<u>Legal Description:</u>	<u>County of Cache, State of Utah</u> <u>Official legal description as Exhibit A</u>
<u>Assessor's Tax Parcel ID#:</u>	<u>02-091-0012 and 02-091-0034</u>
<u>Reference # (if applicable):</u>	

12/18/14

<sup>1</sup>  
UTI PROVIDENCE

DWT 24117223 24117249 v1 0052051-000032



**DRAFT**

MEMORANDUM OF LAND LEASE AGREEMENT

THIS MEMORANDUM OF LAND LEASE AGREEMENT evidences that a Land Lease Agreement ("Agreement") was entered into as of \_\_\_\_\_, 201\_\_\_\_, by and between Providence City ("Lessor"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless ("Lessee"), for certain real property located in Providence, County of Cache, State of Utah, within the property of Lessor which is described in Exhibit "A" attached hereto ("Legal Description"), together with a right of access and to install and maintain utilities, for an initial term of five (5) years commencing as provided for in the Agreement, which term is subject to Lessee's rights to extend the term of the Agreement as provided in the Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Memorandum of Land Lease Agreement as of the day and year last below written.

LESSOR: Providence City

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

LESSEE: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

By: \_\_\_\_\_  
Brian Mecum  
Area Vice President Network  
Date: \_\_\_\_\_

Exhibit A – Legal Description

12/18/14

DRAFT

LESSOR ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that He/She was authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_ of Providence City, to be the free and voluntary act and deed of said party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of \_\_\_\_\_,  
residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_  
Print Name \_\_\_\_\_



DRAFT

LESSEE ACKNOWLEDGMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California )  
 ) ss.  
County of Orange )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared Brian Mecum,  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he executed the same in his  
authorized capacity, and that by his signature on the instrument the person, or the entity upon  
behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
*Place Notary Seal Above*

DRAFT  
EXHIBIT "A"  
LEGAL DESCRIPTION

PARCEL 1: 02-091-0012

PART OF LOTS 2 AND 3, BLOCK 34, PLAT "A" PROVIDENCE FARM SURVEY DESCRIBED AS FOLLOWS:

BEGINNING 40 RODS NORTH OF THE SOUTHEAST CORNER OF LOT 3 AND RUNNING THENCE NORTH 5.25 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 5.25 CHAINS; THENCE EAST 10 CHAINS TO THE PLACE OF BEGINNING.

SUBJECT TO A 1 ROD RIGHT OF WAY OVER THE WEST 1 ROD OF SAID PROPERTY..

ALSO:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID LOT 2, AND RUNNING THENCE EAST TO A POINT 483 FEET WEST OF THE NORTHWEST CORNER OF LOT 4, BLOCK 16, PLAT "A" PROVIDENCE TOWNSITE SURVEY (BEING THE EAST LINE OF THE ABANDONED UTAH IDAHO CENTRAL RAILROAD CORPORATION RIGHT OF WAY) THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID ABANDONED RIGHT OF WAY TO A POINT 553 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH TO BEGINNING; BEING SITUATE IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN.

EXCEPTING THEREFROM THE WEST 3 ACRES PREVIOUSLY DEEDED TO PROVIDENCE CITY IN BOOK 450 AT PAGE 417 IN THE OFFICE OF THE RECORDER OF CACHE COUNTY, UTAH.

EXCEPTING THEREFROM THE EASTERLY 110.21 AS RECORDED IN A DEED RECORDED JULY 18, 2000 IN BOOK 954 AT PAGE 193 IN THE OFFICE OF THE RECORDER OF CACHE COUNTY, UTAH.

PARCEL 2: 02-091-0034

PART OF LOTS 2 AND 3, BLOCK 34, PLAT "A" PROVIDENCE FARM SURVEY DESCRIBED AS FOLLOWS:

THE WEST 3 ACRES OF THE FOLLOWING DESCRIBED PARCEL;

BEGINNING 40 RODS NORTH OF THE SOUTHEAST CORNER OF LOT 3 AND RUNNING THENCE NORTH 5.25 CHAINS; THENCE WEST 10 CHAINS; THENCE SOUTH 5.25 CHAINS; THENCE EAST 10 CHAINS TO THE PLACE OF BEGINNING.

SUBJECT TO A 1 ROD RIGHT OF WAY OVER THE WEST 1 ROD OF SAID PROPERTY.

ALSO:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID LOT 2, AND RUNNING THENCE EAST TO A POINT 483 FEET WEST OF THE NORTHWEST CORNER OF LOT 4, BLOCK 16, PLAT "A" PROVIDENCE TOWNSITE SURVEY (BEING THE EAST LINE OF THE ABANDONED UTAH IDAHO CENTRAL RAILROAD CORPORATION RIGHT OF WAY) THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID ABANDONED RIGHT OF WAY TO A POINT 553 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH TO BEGINNING; BEING SITUATE IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN.

Tax ID: 02-091-0012 and 02-091-0034

~~(Sketch of Premises within Property)~~

10/18/14



Document comparison by Workshare Compare on Thursday, December 18, 2014 9:33:42 AM

Input:	
Document 1 ID	interwovenSite://DWTDOCS/DWT/24117223/1
Description	#24117223v1<DWT> - VZW Land Lease Agreement-Corrected 042414
Document 2 ID	interwovenSite://DWTDOCS/DWT/25554541/1
Description	#25554541v1<DWT> - UT1 PROVIDENCE Land Lease
Rendering set	standard no moves

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	133
Deletions	70
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	203

## Ordinance No. 2015-007

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 10 ZONING REGULATIONS CHAPTER 4 ESTABLISHMENT OF DISTRICTS AND CHAPTER 6 USE REGULATIONS THAT CLARIFY THE PUBLIC USE ZONE. IN ADDITION TO USES IN THE PUBLIC USE ZONE, OTHER USE CHART PROPOSED AMENDMENTS INCLUDE ADDING UPHOLSTERY, PET GROOMING, ~~BEEKEEPING~~, AND MAKING SOME CHANGES IN THE UTILITY AND RELATED SERVICES SECTION.

WHEREAS UCA § 10-9a-102.(2) states "... municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls ..." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- Providence City staff prepared the attached code amendment that clarifies the Public Use Zone and amends the Use Chart. In addition to uses in the Public Use Zone, other Use Chart proposed amendments including adding upholstery, pet grooming, ~~beekeeping~~, and making some changes in the Utility and Related Services section.
- Planning Commission studied the proposed amendment and held a public hearing on February 11, 2015, prior to making a recommendation.
- Providence City Planning Commission took the following action on February 11, 2015:

*Motion to recommend proposed amendments to the City Council with the exception of beekeeping and cell towers until further information is obtained on these two items: S Sanders, second – L Hogge*

*Vote: Yea: K Allen, L Hogge, L Raymond, S Sanders, W Simmons*

*Nay: None*

*Excused: None*

*Abstained: None*

THEREFORE be it ordained by the Providence City Council

- The attached code amendment shall be approved based on the following findings of fact, conclusions of law, and conditions and the recommendation of the Providence City Planning Commission.

Findings of Fact:

- Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
- UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
- UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.



- UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

Conclusions of Law:

- The proposed code amendment has been process consistent with the above Findings of Fact.

Conditions:

- None

- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 24 day of February 2015.

Council Vote:

Bagley, Bill	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Baldwin, Jeff	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Call, Ralph	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Drew, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Russell, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent

Signed by Mayor Don W Calderwood this day of February 2015.

Providence City

\_\_\_\_\_  
Don W. Calderwood, Mayor

Attest:

\_\_\_\_\_  
Skarlet Bankhead, Recorder

## CHAPTER 4

### ESTABLISHMENT OF DISTRICTS

#### SECTION:

- 10-4-1: Zoning Districts Established
- 10-4-2: Boundaries of Districts
- 10-4-3: Planned District
- 10-4-4: Mixed Use District
- 10-4-5: **Public District**

10-4-1: **ZONING DISTRICTS ESTABLISHED:** The City is hereby divided into zoning districts. Portions of each district may also be designated as being within a hazard or redeveloping zone and thus be subject to additional regulations (see Sections 10-3-5, 10-5-1 and Chapter 14 of this Title). The regulations established herein are uniform for all classes of buildings within each district. The districts established herein shall be known as:

District	Abbreviation	Minimum Lot Size sq. ft.	Summary
Agricultural district	AGR	217,800 (5 acres)	Agricultural operations.
Single family estate district	SFE	43,560 (1 acre)*	Single family residential type uses. Home businesses may be allowed as a permitted use or a conditional use.
Single family large district	SFL	21,800*	
Single family traditional district	SFT	12,000*	
Single family residential density district	SFR	10,000	
Single family medium density district	SFM	8,000	
Single family high density district	SFH	6,000	
Single family mobile home district	SMH	5,000	
Multi-family residential density district	MFR	10,000	Multi-family residential type uses. Home businesses may be allowed as a permitted use or a conditional use.
Multi-family medium density district	MFM		
Multi-family high density district	MFH		
Mixed Use District	MXD		See Section 4 below
Commercial neighborhood district	CND		Small scale, day-to-day convenience shopping and services for residents of the immediate neighborhood.
Commercial general district	CGD		Retail, personal service, entertainment, office and related commercial uses.
Commercial highway district	CHD		Retail uses (88%), minimal non-retail use allowed (12%)
Public district	PUB		See Section 5 below
Recreation District	REC		
*Lot Size Averaging may be used in these zones. See 10-8-2. A.			



1  
2  
3 10-4-2: **BOUNDARIES OF DISTRICTS:**  
4

- 5 A. Established; Zoning Map: The boundaries of the zoning districts are hereby established as  
6 delineated on the officially adopted map (or maps) entitled "Zoning Map of Providence City,  
7 Utah", or as hereafter amended by due process. The Zoning Map and all boundaries, notations  
8 and other data shown thereon shall be as much a part of this Title as if fully described and  
9 detailed herein. The Map shall be filed in the office of the City and may be examined by the  
10 public and made available for City use.  
11  
12 B. Boundaries Not Established; Determination: District boundary lines that are not established by  
13 legal definition shall be determined as follows:  
14 1. Boundaries indicated as being approximately upon the center line of a street, alley, easement,  
15 block, canal, waterway or other existing landmark shall be construed to follow such center  
16 line.  
17  
18 2. Boundaries indicated as following lot lines shall be construed as following such platted lot  
19 lines.  
20  
21 3. Boundaries indicated as following City limits shall be construed as following such legal City  
22 limit lines.  
23  
24 4. Boundaries indicated as being parallel to or extensions of features indicated on the Map shall  
25 be so construed. Distances not specifically designated shall be determined by the scale of  
26 the Map.  
27  
28 5. Whenever any street, alley or other public way is vacated by official action of the City Council,  
29 or whenever such area is franchised for building purposes, the zoning district line adjoining  
30 each side of such street, alley or other public way shall be automatically extended to the  
31 center line of such vacated street, alley or way and all area so involved shall then and  
32 henceforth be subject to all regulations of the extended districts.  
33  
34 6. Any uncertainty regarding district boundaries not clarified by the five (5) preceding criteria  
35 shall be referred to the Appeal Authority for resolution.  
36  
37 C. Changes: Changes in the boundaries of the zoning districts shall be made only by due process as  
38 set forth in Section 10-1-5 of this Title. (Zon.Ord., 5-8-1991)  
39

40 10-4-3: **Planned District (P)**  
41

- 42 A. **Purposes:**  
43 1. To encourage and provide a means for effectuating desirable development through the  
44 use of variations in site layout, mixed land uses, and/or varied dwelling or other  
45 buildings.  
46  
47 2. To preserve the amenities and compatibility of P Districts by adoption of a general  
48 development plan, showing proper orientation, desirable design character, and  
49 compatible land uses.  
50  
51 3. To provide for the orderly pre-planning and long-term development for a variety of uses  
52 of large tracts of land which are under unified ownership or development control, so as  
53 to ensure that the entire tract will provide an environment of stable and desirable

1 character.

2  
3 4. To give the developer reasonable assurance that sectional development plans prepared  
4 in accordance with an approved general development plan will be acceptable to the  
5 local jurisdiction. Sectional development plans shall include subdivision plans and/or  
6 planned unit development plans as provided for in this Chapter.

7  
8 5. To enable the adoption of measures providing for development of the surrounding area  
9 in character compatible with the Planned District.

10  
11 B. **Standards and Requirements:** The following provisions shall apply in a P District, which  
12 District shall also be subject to other provisions of the Zoning Ordinance, except that where  
13 conflict in regulations occurs, the regulations specified in this Chapter, or on a development plan  
14 approved pursuant to this Chapter, shall apply.

15  
16 1. P Districts may be established on parcels of land which are suitable for, and of sufficient  
17 size to be planned and developed in a manner consistent with the purposes and  
18 objectives of this Chapter. No P District shall include less than ten (10) acres of  
19 contiguous land.

20  
21 2. No ordinance establishing a P District shall be adopted unless and until there is on file  
22 with the local jurisdiction written consent of every property owner within such District  
23 at the time of adoption of the Ordinance, agreeing:

- 24  
25 a. That the owner will be bound by the conditions and regulations proposed and  
26 which will be effective within the District, and  
27 b. To record such written agreement with the County Recorder

28  
29 3. Before detailed studies of any P District development plans shall be undertaken by the  
30 planning staff or the planning commission, there shall be on file with the local  
31 jurisdiction the written request of all property owners within the proposed District that  
32 such detailed studies be made.

33  
34 4. Standards for area, coverage, density, yard requirements, parking and screening for P  
35 District uses shall be governed by the standards of the residential, commercial, or  
36 industrial zoning districts most similar in nature and function to the proposed P District  
37 use(s), as determined by the Planning Commission, and as modified by the approved  
38 general development plan. Standards for public improvements shall be governed by  
39 applicable ordinances and laws. Exceptions to these standards by the Planning  
40 Commission and by the governing body are possible, when these bodies find that such  
41 exceptions encourage a desirable living environment and are warranted in terms of the  
42 total proposed development or unit thereof.

43  
44  
45 C. **Preliminary Development Plan Approval:**

46 1. Procedure and Applications. Prior to the filing of a formal P District rezoning application,  
47 the applicant shall submit a preliminary development plan for an approval in principle  
48 thereof by the planning commission and the governing body.

- 49  
50 a. The preliminary development plan and text shall be prepared and endorsed by  
51 a qualified urban planner, with other professional assistance as required, and  
52 shall include the following information presented in a general schematic  
53 fashion:



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

- i. The topographic character of the land, and any major grading intended;
- ii. Proposed land uses, population densities, and building intensities;
- iii. Proposed circulation pattern indicating both public and private streets;
- iv. Proposed parks, playgrounds, school sites, and other open spaces;
- v. A market analysis of proposed uses, if required by the Planning Commission, if the property is not zoned for commercial purposes at the time of submittal of the preliminary development plan;
- vi. Delineation of the units to be constructed in progression, if any; and Relation of the proposed development to future land use in surrounding area(s) and as shown on the master plan.

D. **Public Hearing – Optional:** A public hearing on the preliminary development plan may be held by the Planning Commission and governing body. Approval in principle of the preliminary development plan shall be limited to the general acceptability of the land uses proposed and their interrelationships, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility, and such approval shall not be construed as or deemed to be in any form or sense a commitment to approve any subsequent formal rezoning application.

E. **General Development Plan and Schedule Approval:** Together with the application for rezoning classification, the applicant shall submit the following general development plan consisting of documents and supporting evidence, prepared and endorsed by a qualified professional team, as required by the Planning Commission.

1. A mylar map with ten (10) prints of a survey of the property, showing existing features of the property including specimen trees, structures, streets, easements, drainage channels, utility lines, and existing land uses;
2. A mylar map with ten (10) prints of a general development plan which shall be in reasonable conformance with the approved preliminary plan, showing as appropriate, all the information required on the preliminary development plan; the approximate location and proposed density of dwelling units; non-residential building uses and intensities; and land use considered suitable for adjacent properties;
3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of total number of acres in the proposed project and the per cent thereof designated for the various uses; the number of dwelling units proposed by type of dwelling unit of the P District; estimated non-residential population; proposed retail sales area and economic justification; anticipated timing for construction of each unit; and standards for height, open space, building intensity, population density, and public improvements proposed for each unit of development whenever the applicant proposes an exception from standard zoning district or other ordinance regulations governing development;
4. Evidence that the applicant has sufficient control over the land to effectuate the proposed plan;
5. Engineering and other feasibility studies, as necessary; and if the development or plan is to be approved in stages, each stage of development shall be completed prior to proceeding to the next stage, or adequate performance guaranties be posted to insure completion of each approved stage.

1     **G: Findings Required:**

- 2     1. The Planning Commission, after public hearing, may recommend the establishment of a  
3     P District, and the governing body, after public hearings, may by ordinance establish a P  
4     District, provided that both find that the facts submitted with the application and  
5     presented at the hearings establish that:
- 6     a. The proposed P District or a given unit thereof, can be substantially completed  
7     within two (2) years of the establishment of the P District.
- 8     b. That each individual unit of development as well as the total development, can  
9     exist as an independent unit capable creating an environment of sustained  
10    desirability and stability, or that adequate assurance will be provided that such  
11    objective will be attained; and that the uses proposed will not be detrimental  
12    to present and potential surrounding uses, but will have a beneficial effect  
13    which could not be achieved under other zoning districts;
- 14    c. That the streets and thoroughfares proposed are suitable and adequate to  
15    carry anticipated traffic, and increased densities will not generate traffic in such  
16    amounts as to overload the street network outside the P District;
- 17    d. That commercial development can be justified economically at the locations  
18    proposed to provide commercial facilities;
- 19    e. That the area surrounding said development can be planned and zoned in  
20    coordination and substantial compatibility with the proposed development;
- 21    f. That any exception from standard ordinance requirements is warranted by the  
22    design and amenities incorporated into the general development plan, in  
23    accordance with adopted policy of the Planning Commission and the governing  
24    body;
- 25    g. That the P District is in conformance with the Master Plan; and,
- 26    h. That existing or proposed utility services are adequate for the population and  
27    use densities proposed.

28  
29    **H. Planning Commission and Governing Body's Action:**

- 30    1. If, from the facts presented, the Planning Commission, or the governing body is unable  
31    to make the necessary findings, the application shall be denied.
- 32    2. In taking action, the Planning Commission may deny the general development plan and  
33    general development schedule as submitted, or may recommend approval of said plan  
34    and schedule to the governing body, subject to specified amendments.
- 35    3. Upon application for rezoning of an area to a P District and recommendation of such  
36    rezoning by the Planning Commission, the governing body shall hold a public hearing  
37    thereon as required by other amendments to the zoning ordinance.
- 38    4. Changes of use or density of an approved general development plan shall be considered  
39    the same as a change in the zoning map, and shall be made in accordance with the  
40    provisions for amendments of the zoning ordinance. If no development has occurred to  
41    effectuate a P District development within two (2) years after the District is created, the  
42    Planning Commission shall review the action and determine whether or not the  
43    continuation of a given P District is in the public interest. If the Planning Commission so  
44    recommends, the governing body may order the area reverted to the original district  
45    from which it was created, without a public hearing.
- 46    5. At the time of adoption of any ordinance establishing a P District, the governing body  
47    shall make appropriate arrangements with the applicant to insure the accomplishment,  
48    at the scheduled times, of the public improvements, public dedications, and grants of  
49    easement shown on the approved general development plan. The P District shall be  
50    given an appropriate name, number of letter to identify it; and the approved general  
51    development plan shall be adopted by reference and become a part of the zoning  
52    ordinance.
- 53

1 10-4-4: **MIXED USE DISTRICT:**

2  
3 A. **Purpose:** The Mixed Use District is established to stimulate economic development by providing  
4 a unique planning environment which combines light commercial, office, and residential  
5 development in a pedestrian friendly manner. This district encourages creative development and  
6 site design for mixed use commercial, office, and residential uses within the District. The MX  
7 District includes a mixture of uses with no one land use type being a constant dominate or  
8 prevailing use.

9  
10 B. **Procedures:**

- 11 1. The Planning Commission shall be the land use authority for approval of all development  
12 proposals in the MX District. All exterior construction visible from adjacent properties or  
13 public streets must also be reviewed and approved by the Planning Commission.  
14 2. Prior to the Planning Commission taking action, plans must be submitted in accordance  
15 with the zoning ordinance.  
16 3. All submissions shall be made in conformance with the adopted application and agenda  
17 deadline schedule.

18  
19 C. **Uses-Allowed:** Uses are listed in 10-6-1. Any uses not listed on a table in that section are  
20 conditional uses. Any development in the MX District must include retail and either commercial  
21 or residential uses.

22  
23 D. **Development Standards:** The following provisions shall apply in a MX District, which District shall  
24 also be subject to other provisions of the Zoning Ordinance, except that where conflict in  
25 regulations occurs, the regulation specified in this Chapter, or on a development plan approved  
26 pursuant to this Chapter, shall apply.

- 27 1. Open Space: Usable open space shall be provided within the mixed use development  
28 with the amount and type of open space depending upon size, scale, and nature of the  
29 development as determined by the Planning Commission. Approved open space may  
30 include but is not limited to: commons, pocket parks, plazas, courtyards, landscape  
31 features, water fountains and features, and greenbelts. Open space shall be maintained  
32 by owners or the homeowners association. The design shall encourage comfortable and  
33 safe pedestrian use, including landscaping, seating areas, and lighting as appropriate.  
34 2. Standards for area, coverage, density, yard requirements, parking and screening for MX  
35 District uses shall be governed by the standards of the residential, commercial, or  
36 industrial zoning districts most similar in nature and function to the proposed MX  
37 District use(s), as determined by the Planning Commission, and as modified by the  
38 approved general development plan. Standards for public improvements shall be  
39 governed by applicable ordinances and laws. Exceptions to these standards by the  
40 Planning Commission and by the governing body are possible, when these bodies find  
41 that such exceptions encourage a desirable living environment and are warranted in  
42 terms of the total proposed development or unit thereof.

43  
44 E. **Uses:** The variety of uses allowed in a MX District are intended to create a mix of retail,  
45 commercial, entertainment, office, personal services, and residential dwelling land use types that  
46 can be developed in a compact design that encourages compatibility of uses.

47  
48 F. **Architectural Design and Materials:** The treatment of building mass, materials and exterior  
49 appurtenances shall create an aesthetically pleasing building and site that is in character with the  
50 proportions of other surrounding developments. Proposed developments shall be designed with  
51 a common theme that reflects the heritage and community of Providence and traditional small  
52 town streetscapes. The use of theme in a proposed development shall be reviewed and  
53 approved by the Planning Commission. Requirements applicable to all buildings are stated below:



1. All sides of buildings shall receive equal design consideration, particularly where exposed to vehicular or pedestrian traffic and adjacent properties. Façade shifts shall be encouraged on structures with a width greater than 50 feet.
  2. Basic exterior construction materials shall be limited to no more than three types of materials per building and all buildings within the development shall possess a similar architectural theme. Building styles shall be compatible with existing buildings in the MX District.
  3. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls.
  4. Mechanical equipment shall be located or screened so as not to be visible from public and private streets. Screens shall be aesthetically incorporated into the design of the building whether located on the ground or on the roof. Screen materials shall be compatible with those of the building.
  5. Plans for the exterior modifications to any existing structures must be submitted to the Planning Commission for approval and must meet the same requirements as all other structures within the MX District.
  6. The primary entrance to a building shall be located facing the public street. Entrances at a building corner that faces the street may be used to meet this requirement.
- G. Buffers, Fences, and Walls:** The intent in having special buffer, fence, and wall requirements is to provide quality separation between incompatible commercial uses, and to provide physical and visual protection between commercial and residential uses.
1. Landscape buffers are preferred over fences and walls where a separation is desirable. A visually open look should be encouraged between similar uses. Visual screening is often more important than a physical separation and the Planning Commission may, at its own option, require special treatment of such areas.
  2. Buffer treatment may be required whenever a change occurs between residential and non-residential uses. Additional landscaping and screening may be required at the discretion of the Planning Commission within the setback which separates the uses. Fences or walls will be reviewed for their effectiveness in screening a view, and for their color and texture in relationship to building materials.
  3. Where differing uses are to be developed adjacent to existing residential areas, special consideration shall be made to protect the privacy of residents and requirements shall be the discretion of the Planning Commission. As a minimum, the negative effects of noise and artificial lighting shall be minimized to protect existing residents.
  4. Service areas shall be properly screened. Outdoor lighting shall be designed to prevent exposure of light source to the view of residents. Facilities that require late night customers and activities shall be located away from residential areas to reasonably prevent the disruption of privacy.
- H. Parking Areas:** Parking areas shall be considered as structures since they present a three dimensional appearance when occupied.
1. Parking lots shall be located in the central portions of the development and not along streets so they can service a variety of buildings. Location of parking shall be determined not only from its visual relationship to building and site, but also as it relates to safe convenient pedestrian and vehicular circulation patterns. The placing of building and parking elements on a site shall be evaluated by the Planning Commission on the basis of the following factors:
    - a. Type of land use and structure.
    - b. Building height and configuration.
    - c. Relationship to other buildings both horizontally and vertically.
    - d. Natural land features such as slopes and vegetation.
    - e. Physical features such as rail lines, canals, and controlled ingress and egress.
    - f. Visibility from vehicular approaches and distant highways.

- 1 g. Parking locations are strongly encouraged on the side and to the rear of any  
2 proposed structures, with minimum parking between the front of the building  
3 and the street.
- 4 h. Cooperation among neighboring land owners and tenants to share parking for  
5 the public and/or employees is encouraged. The availability of shared parking  
6 may be used as a justification for the approval of development design and  
7 configuration proposals that would otherwise not be approved.
- 8 2. Parking shall not occur adjacent to any public street except when:  
9 a. It has been established that such a location is needed or justified by other site  
10 or building entrance orientation.  
11 b. The use is restricted to visitors and/or key employees.  
12 c. Parking is 80% screened by fencing, walls, and/or landscaping from the highway  
13 or street by either depressing the paved areas or using elevated landscape  
14 berms.  
15 d. A minimum of 10 feet of landscaped screening consisting of mixed evergreen  
16 and deciduous trees shall surround the periphery of paved areas adjacent to  
17 buildings or property lines. The number of trees for this area shall be  
18 determined by a standard of 1 tree per every 200 square feet of landscaping  
19 required,
- 20 3. Parking requirements will be considered as maximum parking requirements. Residential  
21 units will require at least one and a half spaces per unit. Non residential uses may  
22 consider the parking available on public streets as meeting the development  
23 requirements.
- 24
- 25 I. **Signage:** Proper design and placement of signs and their lighting is critical and shall be  
26 compatible with structures and uses. Permitted signs within the MX District shall be in  
27 compliance with this code, except that off-premise signs or billboards shall not be permitted.  
28 Typical retail signage is designed upon a pedestrian scale located 8 – 12 feet above the sidewalk  
29 and placed on the store fronts.
- 30
- 31 J. **Landscaping:** Landscaping shall comply with landscaping requirements in commercial Districts  
32 except as approved by the Planning Commission in the process of reviewing a MX District  
33 Development.
- 34
- 35 K. **Service and Loading Areas:** Loading and refuse collections areas shall not be permitted between  
36 buildings and streets, and must be screened from view of public and private streets. Streets shall  
37 not be used directly for loading, unloading, or refuse collection. Building and improvements upon  
38 lots must be designed to properly accommodate loading, unloading and refuse collection.  
39 Loading and refuse collection areas shall be properly screened meeting standards stated herein.
- 40
- 41 L. **General Maintenance:** An overall maintenance schedule shall be implemented by property  
42 owners in maintaining all buildings, landscaping, fences, walls, drives, and parking lots (including  
43 surfacing and striping, signs, or other structures). The above shall be maintained in good and  
44 sufficient repair in a safe and aesthetically pleasing manner. Roads and pavements shall be kept  
45 true to line and grade and in good repair.
- 46

47 **10-4-5: Public District. This zone provides for a wide range of public and recreational areas and activities,**  
48 **including: public buildings, parks, and open space.**

49

50 **A. Purpose. The purpose and objectives of this zone are as follows:**

- 51 **1. To allow for public buildings and associated uses.**  
52 **2. To enable land to be used for public open space or recreational purposes. Allowing a**  
53 **range of recreational settings and activities and compatible land uses; and to protect**

and enhance the natural environment for recreational purposes.

**B Structures and facilities. The following structures and facilities are permitted in the public district:**

1. Public buildings and amenities.
2. Buildings and areas for storage of equipment and materials.
3. Restrooms (permanent and temporary).
4. Playground structures.
5. Athletic fields and amenities including: fences, batting cages, water activity areas, tennis courts, volley ball areas, athletic field and court lights, parking lots and lights, flags and lights, ballpark advertising banners, regulatory signs.
6. Natural amenities: grass, plants, trees, etc.
7. Cell towers may be allowed by conditional use.

**C Permitted uses. The following uses are permitted in the public district:**

1. Public meetings, City sponsored gatherings and events such as: city celebrations, concerts in the park, movies in the park, etc.
2. Social gatherings (indoor and outdoor). Some gatherings may require a Special Event application and permit (see Title 7, Chapter 7, Section 9 of this Code)
3. Athletic events: competitive and organized recreational play and practice. Some events (including but not limited to: fun runs, marathons, bike races, walks) may require a Special Event application and permit (see Title 7, Chapter 7, Section 9 of this Code)
4. Kiosk and tent vendors associated with permitted events.
5. Food vending by contract with the City.
6. Rental of some City owned facilities.
7. General, unorganized play and recreational use.



# CHAPTER 6

## USE REGULATIONS

### SECTION:

10-6-1: Use Chart

10-6-2: Classification of New and Unlisted Uses

10-6-1: **USE CHART:** Land and buildings in each of the zoning districts may continue to be used, but no land shall herein after be used, and no building or structure shall hereinafter be erected, altered or converted which is arranged, designed or used for other than those uses specified for the district in which it is located as set forth by the following use chart and indicated by:

P = permitted use

C = conditional use permit required

X = special review required

I = Allowed only as a conditional use when incidental to a retail business with more than 15,000 square feet of floor area and:

- incidental to a single use (i.e.: a bank is incidental to retail business, not multiple businesses); and
- a department store, grocery store, health fitness center, or other retail business may have more than one incidental use associated with it; and
- the combined total of all incidental uses associated with a building may not exceed 12% of the gross square footage of the building or 6,000 sq ft whichever is less (administrative offices, restrooms, storage areas, and other enmities necessary for the operation of the retail business are not considered incidental uses) ; and
- cannot be a stand alone building (an unoccupied drive through structure(s) and/or fueling pads will be counted as part of the 12% but not included in the 6,000 sq ft cap of the incidental use); and
- must share the same public entrance(s); and
- a permitted business is not considered an incidental use; and
- incidental use must have its own business license unless owned and operated by the primary retail business.

= not permitted (absence of symbol)

If a use is not specifically designated, it is prohibited.

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
<b>A</b>	<b>Residential Uses</b>																
1	Single family, detached	P	P	P	P	P	P	P	P	P			C			P	
2	Single family, attached					P	P	P		P	P	P				P	
3	Dwelling, two family									P	P	P				P	
4	Dwelling, three family									P	P	P				P	
5	Dwelling, four family									P	P	P				P	
6	Dwelling, multi-											P				P	

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
	family																
7	Manufactured/modular	P	P	P	P	P	P	P	P	P	P	P				P	
8	Mobile/trailer home								P								
9	Secondary residential structure (OM 005-2005 01/13/04)	C	C		C												
10	Cluster development			C	C	C	C	C	C	C	C	C				C	
11	Inner block development		C	C	C											C	
12	Planned Unit Development	C	C	C	C	C		C	C	C	P	P				C	
13	Bed & Breakfast	C	C	C	C	C							C	C		C	
14	Hotel/motel											C	C	C		C	
15	Lodging house									C	C	C	C	C		C	
16	Residence for persons with disabilities		P	P	P	P	P	P	P	P	P	P				C	
17	Residential facility for the aged		P	P	P	P	P	P	P	P	P	P				C	
B	Accessory/Incidental Uses																
1	Accessory building	P	P	P	P	P	P	P		P	P	P	P	P	P	P	
2	Accessory dwelling unit	€	€		€	€	€									P	
3	Accessory farm building	P	P	P	P	P											
4	Off street parking incidental to main use	P	P	P	P	P	P	P		P	P	P	P	P	P	P	
5	Private swimming pool	P	P	P	P	P	P	P		P	P	P	P	P		P	
C	Governmental/Institutional/Special Services																
1	Church	P	P	P	P	P	P	P	P	P	P	P					
2	Ministers, rabbis, priests, and other similar ordained religious work	P ^	P ^	P ^	P ^	P ^	P ^	P ^	P ^	P ^	P ^	P ^	P				
3	Community center	P	P	P	P	P	P	P	P	P	P	P	P	P			
4	Day care nursery	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C ^	P	P	I or	C	

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M F H	C N D	C G D	C H D	M X D	P U B
															C *		
5	Preschool	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	P			C	
6	Public Park	P	P	P	P	P	P	P	P	P	P	P				P	P
	Private Lessons / public facility																C
7	Public School (OM 020-2004)	P	P	P	P	P	P	P	P	P	P	P					
8	Public building	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P
D	Utility and Related Service																
1	Electric substation	C	C														
2	Electric power plant	C															
3	Fire station	P	P	P	P	P	P	P	P	P	P	P					
4	Gas meter station	P	P	P	P	P	P	P	P	P	P	P					
5	Irrigation supply	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6	Utility distribution lines	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
7	Radio/TV/cellular tower													C			
8	Sewage/water pumping station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
9	Telephone utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
10	Public utilities, other	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
11	Utility shop, storage and bldgs	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
12	Water treatment plant	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
13	Water well reservoir or storage tank	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
E	Professional Services																
1	Business office, medium impact	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C			P	
2	Business office, low impact	P ^	P ^	P ^	P ^	P ^	P^	P ^	P^	P^	P^	P^	P			P	
3	Business office, general												C	P	I or C *	P	
4	Clinic, dental												C	P	I or C *	P	
5	Clinic, medical												C	P	I	P	



		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
															or C *		
6	Clinical Social Worker												C	P	I or C *	P	
7	Office for single physician, dentist, or chiropractor	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^			I or C *		
8	Licensed professional	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C	P	I or C *	P	
9	Mortuary	C ^	C ^	C ^					C^	C^	C^	C^	C	P		P	
1 0	Optical shop	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C	P	I or C *	P	
1 1	Pharmacy	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C	P	I or C *	P	
1 2	Private school, teaching, tutoring(1 or 2 students at a time)	P ^	P ^	P ^	P ^	P ^	P^	P ^	C^	C^	C^	C^					
1 3	Private school, teaching	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C	P		P	
1 4	Studio: Art, Dance, Drama, Photography, etc (1 or 2 students at a time)	P ^	P ^	P ^	P ^	P ^	P^	P ^	C^	C^	C^	C^					
1 5	Studio: Art, Dance, Drama, Photography, etc and tutoring	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	C	P	I or C *	P	
1 3	Dressmakers, seamstresses, tailors, and related occupations	P ^	P ^	P ^	P ^	P ^	P^	P ^	C^	C^	C^	C^					
1 4	Artists, artisans, craftsman, sculptors, authors, small crafts and handcrafts, and	P ^	P ^	P ^	P ^	P ^	P^	P ^	C^	C^	C^	C^					

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
	related artistic work																
1 5	Veterinarian^	C ^	C ^	C ^					C^	C^	C^	C^	P	C		P	
F .	Retail/Related Uses																
1	Adult oriented business													C			
2	Food preparation, catering, etc	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	P	P	P	P	C
3	Bakery/Confectionery sales												P	P	P	P	
4	Barber/beauty shop	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	P	P	P	P	
5	Book/Stationery Store												p	p	p	P	
6	Computer Store												p	p	p	P	
7	Department store													p	p	P	
8	Florist Store												p	p	p	P	
9	Furniture Store													p	p	P	
1 0	Specialty Store/Shop	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^			P		
1 1	Grocery store	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	p	p	p	P	
1 2	Hardware store													p	p	P	
1 3	Home & Garden store												p	p	p	P	
1 4	Laundry/dry cleaning store												p	p	p	P	
1 5	Liquor store (OM 015-2004)													p	p	P	
1 6	Music Store												p	p	p	P	
1 7	Paint Store													p	p	P	
	Pet Grooming	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	P	P	P	P	
1 8	Pet Store													p	p	P	
1 9	Restaurant/fast food												p	p	p	P	
2 0	Shoe repair	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^	p	p	p	P	
2 1	Small appliance repair	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^	C^	C^	C^		p	p	C	
2 2	Variety Store												p	p	p	P	
2	Commercial												p	p	p	P	

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
3	complex																
2 4	Shopping center													p	p	P	
2 5	Tire sales, retail (OM 001-002, 02/27/01)													c	P		
2 6	Yard sales on an occasional basis	P ^	P ^	P ^	P ^	P ^	P^	P ^	P^	P^	P^	P^					
<b>G</b>	<b>Commercial/Related Uses</b>																
1	Auto Sales – New & Used (OM 016- 2004 05/11/04)													P	P		
2	Auto Sales –Used (OM 016-2004 05/11/04)																
3	Auto wash												P	P	P		
4	Bank/financial													C	I or C *	P	
5	^^^Nondepository Financial Institutions													P	I or C *		
6	Building materials													P	P		
7	Dance hall																
8	Gasoline/petroleum storage (not bulk)	C	C	C	C								C	C	C		
9	Gasoline sales/service												P	P	P		
1 0	Fitness Center Commercial (Gym)													P	P	P	
1 1	Convenience store												P	P	P		
1 2	Night club																
1 3	Print shop/sales	C ^	C ^	C ^	C ^	C ^	C ^	C ^					P	P	P	P	
1 4	Recreation/Entertainment													P	I or C *		
1 5	Research facilities	C ^	C ^	C ^	C ^	C ^	C ^	C ^				P					
1 6	Theater													P	P	P	
1	Vehicle storage																



		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
7																	
H	<b>Industry and Manufacturing</b>																
1	Auto repair, paint and body shop																
2	Bldg maintenance & repair services																
3	Cabinet Shop																
4	Clothing Manufacturer																
5	Furniture Manufacturer																
6	General contractor yard																
7	HVAC shop/sales																
8	Ice cream plant																
9	Lumber yard													P			
10	Paint Shop													P			
11	Welding/machine Shop													C			
12	Wholesale outlet/storage and sales													P			
13	Light Manufacturing													C			
14	Motorcycle, Snowmobile, ATV, etc repair	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^								
I.	<b>Agriculture and Related Uses</b>																
1	Beekeeping	P ^^	P ^ ^	P ^ ^													
2	Breeding or raising animals for sale, food, pleasure, or profit	P ^^	P ^ ^	P ^ ^	P ^ ^	P ^ ^											
3	Keeping dogs, cats, fish, or exotic caged birds	P ^^	P ^ ^	P ^ ^	P ^ ^	P ^ ^	P^ ^	P ^ ^	P^ ^	P^ ^	P^ ^	P^ ^		C	I	P	
4	Commercial crop production	P	P	P													
5	Dairy business	P ^^	P ^ ^	P ^ ^													
6	Feed lot	C															
7	Gardens and	P	P	P	P	P	P	P	P	P	P	P	P			P	

		A G R	S F E	S F L	S F T	S F R	SF M	S F H	S M H	M FR	M F M	M FH	C N D	C G D	C H D	M X D	P U B
	orchards for home use																
8	Ranch/farm production and operation	P	P														
9	Garden and greenhouse plants and produce for wholesale or retail sales OM 007-2006 05/23/2006	C ^	C ^	C ^	C ^	C ^	C ^	C ^	C^								

1 ^Use is allowed as a permitted or conditional use only if it is a home business, child care business or  
2 nonconforming business that complies with Title 3, Chapter 4 of this Code, Conditional Businesses

3 ^^Must conform to Title 5 Chapter 1of this Code, Animal Regulation and Control.

4 ^^^Nondepository financial institutions are businesses that conduct transactions of cashing a check for  
5 consideration or extending a deferred deposit loan and shall include any other similar types of businesses  
6 licensed by the State of Utah pursuant to the check cashing and deferred deposit lending registration act.  
7 Nondepository financial institutions shall be limited by the population of all residents in Providence City.  
8 The total population figures shall be based on the US Census Bureau's annual estimates. Only one  
9 nonfinancial institution shall be allowed for a population of 0 – 7,000. and 1 per 7,000 thereafter.

10 \*The following conditions apply to a non-sales tax generating business (NSTGB) located in the CHD zone:

- 11 1. The combined total of all NSTGB will be limited to no more than 15% of the combined existing  
12 gross leasable space (GLS) of buildings in the project area; the GLS of a building is based on the  
13 square footage of the ground floor; upper levels are not included in the combined totals for or  
14 against the 15% limitation.
- 15 2. The project area is the approved preliminary plat.
- 16 3. Incidental uses in the project area are not computed in the 15% limitation.
- 17 4. NSTGB may be in a free standing building of its own or part of a multi-tenant building with  
18 separate outside entrances for the public.

#### 21 10-6-2: CLASSIFICATION OF NEW AND UNLISTED USES:

22 A. Request; Referral: Requests for a new use or unlisted conditional use shall be referred to  
23 the Planning Commission chairperson for consideration by the Planning Commission. Applications for a  
24 new use and unlisted conditional use will be processed in accordance with the procedures listed in  
25 subsection 10-3-5:C of this Title to determine if such use should be permitted and added to the current  
26 list of approved uses. The Planning Commission shall forward to the City Council a recommendation to  
27 accept or reject the request. The Planning Commission shall also forward, with any recommendation for  
28 approval of a new use, the necessary ordinance amendments to implement the use.

29 B. City Council Action: The City Council will approve or disapprove the recommendation.  
30 Upon approval, the Process will be started to amend the necessary City ordinances in accordance with the  
31 procedures outlined for ordinance amendments and changes. (Ord., 7-23-1996)





Ordinance No. 2015-008

AN ORDINANCE AMENDING THE PROVIDENCE CITY ZONING DISTRICT(S) AND ZONING MAP BY CHANGING THE ZONE OF PROVIDENCE CITY PARKS TO PUBLIC USE (PUB) AS FOLLOWS:

ALMA H LEONHARDT PARK, 310 WEST 250 NORTH, AGR TO PUB  
BRAEGGER PARK, 300 EAST 300 SOUTH, SFT TO PUB  
BROOKSIDE PARK, 450 NORTH 100 EAST (38 EAST SPRING CREEK PARKWAY), SFH TO PUB  
CATTLE CORRAL PARK, 100 EAST 200 SOUTH, SFT TO PUB  
HAMPSHIRE PARK, 285 WEST 575 SOUTH, SFT TO PUB  
MEADOW RIDGE PARK, 251 SOUTH 325 WEST, AGR TO PUB  
UPTOWN PARK, 100 EAST 100 NORTH, CGD TO PUB  
VON BAER PARK, 350 EAST CENTER, SFT TO PUB  
ZOLLINGER PARK, 61 NORTH 200 WEST, CGD TO PUB

WHEREAS Providence City desires to have a uniform zone for parks.

WHEREAS UCA § 10-9a-102.(2) states "... municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls ..." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

1. UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.
- Planning Commission studied the proposed amendment and held a public hearing prior to making a recommendation.
- The Planning Commission considered held a public hearing on February 11, 2015.
- The Planning Commission took the following action during their meeting on February 11, 2015:

*Motion to recommend to City Council all parks be rezoned under common PUB zone: L Hogge, second – K Allen*

*Vote: Yea: K Allen, L Hogge, L Raymond, S Sanders, W Simmons*

*Nay: None*

*Excused: None*

*Abstained: None*

- The Providence City Council considered the Planning Commission recommendation during their council meeting on February 24, 2015

1 THEREFORE be it ordained by the Providence City Council

- 2 • The Providence City parks shall be rezoned to Public Use (PUB) based on the findings of  
3 fact, conclusions of law, and conditions listed below and the recommendation of the  
4 Providence City Planning Commission:

5 Findings of Fact:

- 6 ○ Providence City Code (PCC) 10-1-5:A. states changes and amendments to this  
7 Zoning Title shall be done in accordance with state law.  
8 ○ UCA § 10-9a-503(1) states "The legislative body may amend: (a) the number,  
9 shape, boundaries, or area of any zoning district; (b) any regulations of or within  
10 the zoning district; or (c) any other provision of a land use ordinance.  
11 ○ UCA § 10-9a-505(1)(a) The legislative body may divide the territory over which it  
12 has jurisdiction into zoning districts of a number, shape, and area that it  
13 considers appropriate to carry out the purposes of this chapter.  
14 ○ UCA § 10-9a-505(3)(a) There is no minimum area or diversity of ownership  
15 requirement for a zone designation. (b) Neither the size of a zoning district nor  
16 the number of landowners within the district may be used as evidence of the  
17 illegality of a zoning district or of the invalidity of a municipal decision.

18 Conclusions of Law:

- 19 ○ The request to rezone the Providence City parks to Public Use (PUB) is  
20 consistent with the Findings of Fact listed above.  
21 ○ The attached map shows the Providence City parks as the proposed PUB zone.

22 Conditions:

- 23 ○ None  
24

- 25 • This ordinance shall become effective immediately upon passage and posting.  
26

27 Ordinance adopted by vote of the Providence City Council this 24 day of February 2015.

28  
29 Council Vote:

30  
31 Bagley, Bill ( ) Yes ( ) No ( ) Excused ( ) Abstained ( ) Absent  
32 Baldwin, Jeff ( ) Yes ( ) No ( ) Excused ( ) Abstained ( ) Absent  
33 Call, Ralph ( ) Yes ( ) No ( ) Excused ( ) Abstained ( ) Absent  
34 Drew, John ( ) Yes ( ) No ( ) Excused ( ) Abstained ( ) Absent  
35 Russell, John ( ) Yes ( ) No ( ) Excused ( ) Abstained ( ) Absent  
36

37 Signed by Mayor Don W Calderwood this day of February 2015.

38  
39 Providence City  
40

41 \_\_\_\_\_  
42 Don W. Calderwood, Mayor  
43

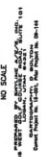
44 Attest:

45 \_\_\_\_\_  
46 Skarlet Bankhead, Recorder  
47  
48



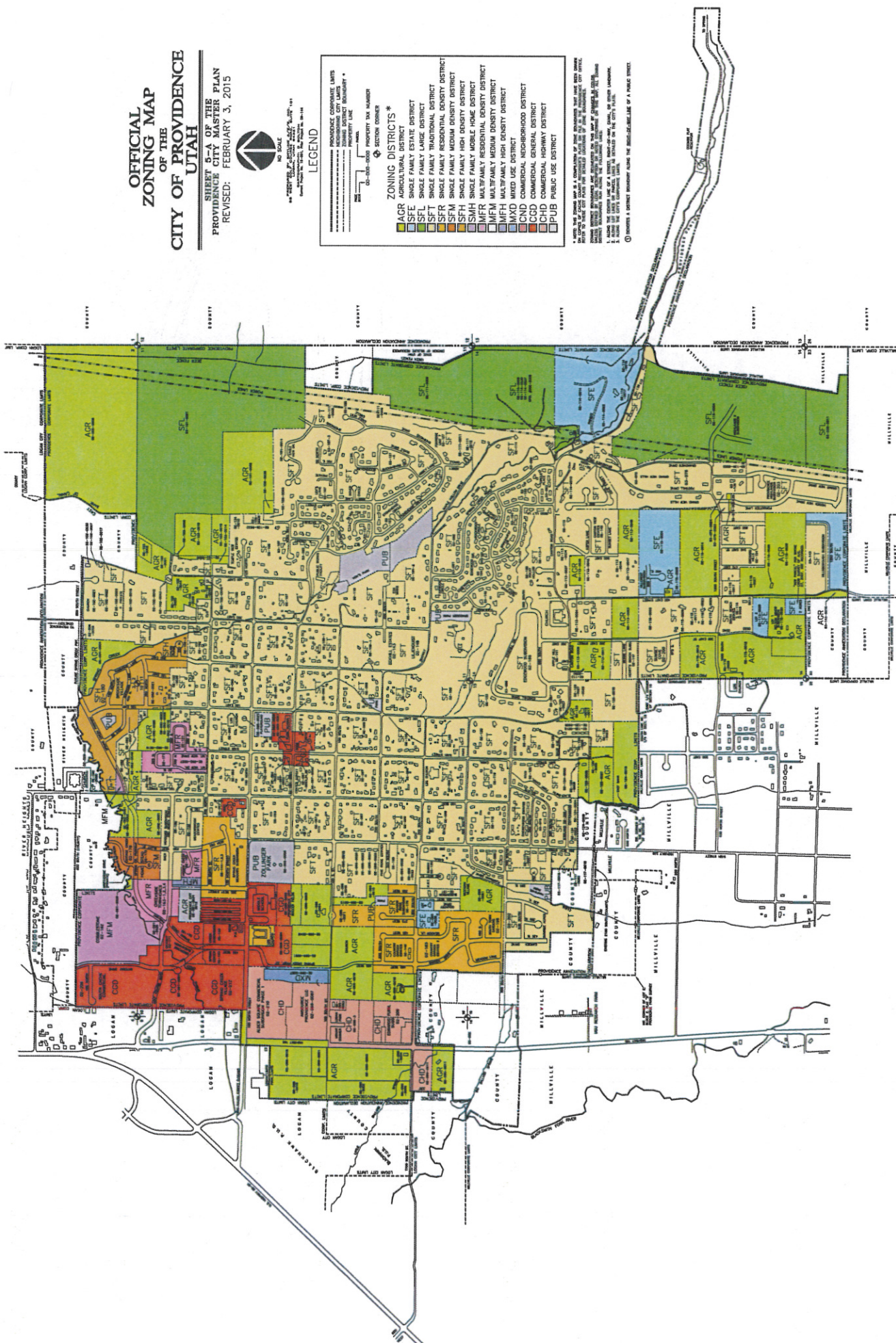
SHEET 5-A OF THE  
PROVIDENCE CITY MASTER PLAN  
REVISED: FEBRUARY 3, 2015

SHEET 5-A OF THE  
PROVIDENCE CITY MASTER PLAN  
REVISED: FEBRUARY 3, 2015



PROVIDENCE CORPORATE LIMITS  
NEIGHBORING CITY LIMITS  
ZONING DISTRICT BOUNDARY \*

- ZONING DISTRICTS\***
- |     |  |
|-----|--|
| AGR | AGRICULTURAL DISTRICT                      |
| SFE | SINGLE FAMILY ESTATE DISTRICT              |
| SFL | SINGLE FAMILY LARGE DISTRICT               |
| SFT | SINGLE FAMILY TRADITIONAL DISTRICT         |
| SFR | SINGLE FAMILY RESIDENTIAL DENSITY DISTRICT |
| SFM | SINGLE FAMILY MEDIUM DENSITY DISTRICT      |
| SFH | SINGLE FAMILY HIGH DENSITY DISTRICT        |
| SMH | SINGLE FAMILY MOBILE HOME DISTRICT         |
| MFR | MULTIFAMILY RESIDENTIAL DISTRICT           |
| MFH | MULTIFAMILY MEDIUM DENSITY DISTRICT        |
| MFL | MULTIFAMILY LOW DENSITY DISTRICT           |
| MXH | COMMERCIAL HIGHWAY DISTRICT                |
| CND | COMMERCIAL NEIGHBORHOOD DISTRICT           |
| CHD | COMMERCIAL DISTRICT                        |
| CHH | COMMERCIAL HIGHWAY DISTRICT                |
| PUB | PUBLIC USE DISTRICT                        |

[illegible]





**Ordinance No. 2015-003**

**AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 4 CHAPTER 1 NUISANCES**

WHEREAS UCA § 10-3-702 states "The governing body may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law. . ." and

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- At the request of the City Council, the attached code amendment has been prepared.

THEREFORE be it ordained by the Providence City Council

- The attached code amendment shall be approved;
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 24 day of February 2015.

Council Vote:

Bagley, Bill	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Baldwin, Jeff	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Call, Ralph	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Drew, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent
Russell, John	( )Yes	( )No	( )Excused	( )Abstained	( )Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

\_\_\_\_\_  
Don W. Calderwood, Mayor

Attest:

\_\_\_\_\_  
Skarlet Bankhead, Recorder





## Nuisances

### Section:

- 4-1-1: Nuisances Defined; Declaration
- 4-1-2: Noise
- 4-1-3: Smoke
- 4-1-4: Heat and Associated Glare
- 4-1-5: Vibrations
- 4-1-6: Fly Ash, Dust, Fumes, Vapors, Gases, and other Forms of Air Pollution
- 4-1-7: Liquid and Solid Wastes
- 4-1-8: Restrictions on Blocking Water
- 4-1-9: Nuisances on Property
- 4-1-10: Outdoor Storage of Personal Property
- 4-1-11: Nuisance Enforcement and Penalty

#### 4-1-1 Nuisances Defined; Declaration:

- A. **Definition:** Pursuant to Utah Code 78B-6-1101, a nuisance is anything which is injurious to health and safety, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. Providence City declares "Section 4, Chapter 1" applies to all properties within the Providence City Corporate limits.
- B. **Author Defined:** Where a nuisance exists upon property and is the outgrowth of the activities conducted or use of the property, the owner or landlord or agent, the tenant or agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (1977 Code 10-312)
- C. **Deceleration of a Nuisance:** Every act or condition made, permitted, allowed or continued in violation of Section 4-1-1 of this Chapter, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided. Nuisances include, but are not limited to:
  - a. Befouling water in any spring, stream, well, or other water source supplying water for culinary purposes.
  - b. Allowing any privy, vault or cesspool, or other individual wastewater disposal system to become a hazard to health, drain into waters used for culinary purposes, or become a source of odors to air or water.
  - c. Allowing organic waste, garbage, litter, filth, or refuse of any kind to accumulate within any yard, alley, street, except when it is temporarily placed for immediate removal, (within 24 hours).

- d. Permitting the accumulation of manure in any stable, stall, corral, feed yard, pen, or coup, where animals are kept, causing health and sanitation conditions to be detrimental to the animals health and welfare.
- e. Permitting any slaughter house, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold, to remain in any state or condition detrimental to health and safety because of odors and bacteria, or in which flies or other insects breed.
- f. Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot and as a result of continued discharge will render the place of discharge offensive or likely to become so.
- g. Keeping or collecting any stale or putrid grease, except for authorized collection businesses wherein the collected waste is properly contained and sealed so as not to produce offensive odors.
- h. Failing to furnish any dwelling unit, business, factory, or other place of employment with such privy vaults, water closets, sinks, or other facilities as may be required to maintain the same in sanitary condition.
- i. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools, or other individual wastewater disposal systems within twenty (20) days after notice from the nuisance officer of the city.
- j. Having or permitting upon any premises or business any fly or mosquito producing condition.
- k. Permitting or performing any ablutions in or near any public drinking fountain.

#### 4-1-2 Noise:

- A. At no point on the property line shall the sound level of any noise transmission exceed 70 dBA from 7:00 am to 10:00 pm and 55 dBA from 10:01 pm to 6:59 am. Sound levels shall be measured with a sound level meter that meets American National Standards Institute (ANSI) standard S1.4-1983 (R2006). Measurements shall be made using the "A weighted" filter of the sound level meter. Impulsive type noises shall be measured using an integrating meter that complies with ANSI standards and uses the same measurement procedures.
- B. Exceptions: Special events such as sports games, public celebrations, temporary noise due to construction activities, operation of landscape maintenance equipment/machinery, and craftsman/hobby activities which do not exceed two (2) cumulative hours per day may exceed the maximum dBA limits.
  - a. When exceeding the maximum dBA it is the responsibility of the sound producer to insure the protection of persons being exposed to high noise

levels by mitigating the risk using distance, sound absorption materials, or other suitable means.

#### 4-1-3 Smoke:

- A. No emission of smoke from any source shall be permitted to exceed a greater density than that density described as #1 on the Ringlemann Smoke Chart. However, smoke may be emitted which is equal to but not darker than #2 on the Ringlemann Smoke Chart for not more than 4 minutes in any 30 minute period. For the purpose of grading the density of smoke, the Ringlemann Smoke Chart, as published by the U.S. Department of the Interior, Bureau of Mines, and as amended from time to time, shall be the standard.
- B. Smoke from outdoor recreational fires must be controlled so as not to engulf neighboring homes and properties. Nuisance complaints will favor the home(s) being affected by the smoke and any property damage associated with the smoke will be the responsibility of the smoke producer.
- C. The following materials cannot be burned within the city limits:
  - a. Rubber
  - b. Plastics
  - c. Composites containing polyester or epoxy resins
  - d. Material which becomes toxic when burned or produces toxic gases
  - e. Railroad ties
  - f. Leaves and green yard clippings

#### 4-1-4 Heat and Associated Glare:

- A. Any activity or process producing intense heat and associated glare shall be performed within an enclosure or blocked by obscuring fences, curtains, or tarps which sufficiently block the glare and stop heat transmission.
- B. Glare produced by solar collection devices must be controlled and contained within the property where such devices are located.

#### 4-1-5 Vibrations:

- A. No vibration, which is originated from a process or operation on a parcel or property, shall be permitted which is discernible beyond the lot line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour of the day between the hours of 7:00 am and 7:00 pm. No nuisance vibrations are permitted from 7:01 pm and 6:59 am.
- B. Exception: Vibrations due to construction which are temporary in nature are permitted from 7:00 am to 7:00 pm and they may exceed the limitations stated in 4-1-5 (A).



4-1-6 Fly Ash, Dust, Fumes, Vapors, Gases, and other Forms of Air Pollution:

- A. No emission shall be permitted from any source whatsoever producing quantities of air contaminants or other materials which can cause damage to human or animal health, vegetation, or property.
- B. It is the responsibility of the producing property owner to contain such materials that in the event of adverse weather conditions stated contaminants will remain contained and prevented from distribution into the atmosphere.

4-1-7 Liquid and Solid Wastes:

- A. No materials deemed hazardous by the Utah Department of Environmental Quality, the United States Environmental Protection Agency, or any other body having jurisdiction, shall be discharged in a public or private sewage system, upon the ground, into a storm drain system, into an irrigation ditch or canal system, an open body of water, or in any other manner which would endanger the normal operation of the public or private water or sewage system, the storm drainage system, contaminate soil, or cause harm to any water aquifer.
- B. No person may construct or maintain a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse where the waste of drainage therefrom shall flow directly into the waters of any stream, well, or spring of water used for domestic purposes.
- C. All restroom and/or sewer facilities shall be constructed and maintained in accordance with Utah Law and City ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein described. (1977 Code 10-315, 1998 Code)

4-1-8 Restrictions on Blocking Water:

- A. It is unlawful for any person, property owner, or contractor performing work on said property, to permit any drainage system, canal, ditch, culvert, or any other water course of any kind, natural or artificial, to become obstructed causing water to back up and/or overflow there from.
- B. Natural disasters resulting in blockage of water such as wind storms, heavy rain, excessive spring runoff, animals building dams, and any other naturally occurring condition requiring immediate resolution to protect life and property become the joint responsibility of emergency services provided by the City, canal and irrigation companies, and property owners.
- C. Property owners are responsible for curb and gutters bordering their properties to be kept clean and free of clutter such as leaves, grass clippings, dirt, or any other item that causes the blockage of natural water flow in the gutter.

4-1-9 Nuisances on property:

A. **Definitions:** The following words, terms, and phrases, when used in this chapter shall have the following meanings:

- a. **Brush Pile:** An accumulation of cuttings or dead portions of tree limbs and shrubs not exceeding 3 inches in diameter and any length.
- b. **Logs:** A tree trunk or limb with a diameter in excess of 3 inches and any length.
- c. **Compost:** A mixture of decaying organic material used for the express purpose of fertilizing and conditioning soil.
- d. **Owner or Occupant:** The owner of record or any agent or representative of such owner, and any person entitled, by lease or tenancy, to possession of the premises.
- e. **Property Extensions:** The property which is accessible to the public and borders the owners property, whether or not improved or vacant, which includes all easements of record, the area to the center of an alley from property borders, and sidewalk, curb, gutter, and parking area of any street abutting property lines.
- f. **Refuse:** Solid and liquid wastes, except hazardous wastes, decayable or non-decayable, combustible and non-combustible, organic and inorganic, wastes and materials commonly known as trash, garbage, debris and litter, paper products, ashes (no human or animal remains), cardboard, metal and plastic cans, yard clippings, glass, rags (clean or soiled), discarded clothing, and small electric appliance devices.
- g. **Animal Refuse:** Solid and liquid wastes produced from animals, which includes but is not limited to, animal entrails, feces, carcasses, rodents, and waste deposits from kennels, pens, or coops.
- h. **Fire Wood:** Wood gathered, cut and split, and stacked for the purpose of burning in fireplaces, stoves, brick ovens, or other devices designed for burning of wood.
- i. **Large Refuse:** Waste piles exceeding one (1) cubic yard and consisting of items defined under refuse (f), unusable tires, abandoned vehicles or parts thereof, scrap metal, scrap construction debris, scrap or nonfunctioning household furniture which is non-repairable and unused, and household appliances which are scrap and non-repairable,
- j. **Non-Functioning Vehicles:** A vehicle, (car, truck, boat, motorcycle, snow mobile, four wheeler, camper/camp trailer/motor home, or utility trailer), which may or may not be registered and is not currently operational, but is whole and complete, awaiting repairs to become operational.
- k. **Junk Vehicle:** A vehicle which has no salvage value except for metal recycle purposes and is in a condition which supports rodent infestation, presents a

- health and safety concern, has broken glass, parts missing, and will not move without being towed or trailered.
- l. **Project Vehicle:** A vehicle, (car, truck, boat, motorcycle, snow mobile, four wheeler, camper/camp trailer/motor home, or utility trailer), which is being rebuilt/reconstructed to running condition as a restoration or custom modified vehicle.
  - m. **Visible Yard Areas:** The yard area from the most forward part of the building and the street which access the home or business.
  - n. **Non-Visible Yard Areas:** Yard spaces on each side of the building and back yard starting from the most forward part of the building to the most rearward property line.
  - o. **Concealed Storage:** Storage which is contained in a building having at least three (3) privacy walls, storage in a yard area protected by a fence providing 80% visual blockage, and anything stored in a back yard whether or not a privacy fence is provided. Natural or planted vegetation is a suitable alternate to a privacy fence, or any combination thereof, provided the 80% coverage is met.
  - p. **Weed:** An aggressive non-native herbaceous plant detrimental to native plant communities or agricultural lands and any other type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.
  - q. **Nuisance Officer:** The Providence City Nuisance Officer or a designated representative of the Nuisance Officer as approved by the City Council.
- B. No person owning, leasing, occupying, or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.
  - C. An occupant of a residence may maintain a compost pile to facilitate decomposition of organic material, used for the express purpose of fertilizing soil, and shall be maintained to prevent it from becoming a nuisance by producing offensive odor, attracting insects, or animals.

#### 4-1-10 Outdoor Storage of Personal Property:

- A. No person may store refuse, as defined in 4-1-9, which becomes hazardous, produces odor, or presents a health or safety concern, whether in sheltered storage or not, to persons or property. Storage of items for a recycling program is permitted so long as



containers are emptied no less than at thirty (30) day intervals and the containers are kept clean and odor free, and are stored in a back or side yard area.

- B. No person may store large refuse, as defined in 4-1-9, unless it is in a back yard and protected from view from persons on a public sidewalk, or public street. Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.
- C. For the purpose of having a yard sale, items of personal property may be displayed in a front yard visible to the public from 6:00 am until 7:00 pm, thereafter all items of personal property, excluding vehicles, must be removed from the front yard of the property.
- D. Operational vehicles for sale may be displayed in full view of the public so long as they are currently registered and operational. Non-functioning vehicles, defined in 4-1-9, may also be displayed in a driveway, for sale, but not parked on the street.
- E. Junk vehicles, as defined in 4-1-9, must be stored in a back yard out of the visibility of the public on a public sidewalk or street, behind a privacy fence if stored in a side yard, and never stored in a front yard area. No more than three (3) junk vehicles may be stored on a parcel of property at any one time. Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.
- F. Project vehicles, as defined in 4-1-9, must be stored in a back yard out of the visibility of the public on a public sidewalk or public street, behind a privacy fence if stored in a side yard or covered with a tight fitting cover if stored in a side yard without a privacy fence, and never stored in a front yard area unless it is in a driveway completely covered with a tight fitting cover, and has no fluids dripping from the vehicle. No more than one (1) project vehicle is allowed in a front or side yard area and no more than three (3) project vehicles are allowed if stored in a back yard area. The cumulative total of project vehicles stored outside is three (3). Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.
- G. The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offence shall be deemed committed on each day during or on which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Chapter. No person, after abatement notification has been given, shall move the inoperable motor vehicle in

question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

- H. ABATEMENT BY OWNERS: The owner, owners, tenants, lessees or occupants of any lot within the City on which such "storage", as defined in Section 4-1-2-3 of this Chapter, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City. (1977 Code § 10-334)

4-1-3 11: ABATEMENT PROCEDURE:

A. APPOINTMENT AND DUTIES OF NUISANCE OFFICER:

1. Appointment: There is hereby established the position of Nuisance Officer whose duties shall be to enforce the provisions of this Chapter. Until another person is designated, the contracted law enforcement agency shall enforce the provisions of this Chapter. More than one person may be appointed to act as Nuisance Officer under this Section.
2. Duties: The Nuisance Officer is authorized to:
  - a. Perform all functions necessary to enforce the provisions of this Chapter.
  - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this Chapter.
3. Existence of Objectionable Condition: If ~~he~~ the Nuisance Officer concludes there exists an objectionable condition in violations of this Chapter, the Nuisance Officer shall:
  - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
  - b. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the County Assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the Nuisance Officer may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the Nuisance Officer following the date of service of such notice, to correct the objectionable condition. The notice shall:
    - i. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
    - ii. Inform the owner, occupant or other person that in the event ~~he~~ they disagrees with the determination of the Nuisance Officer and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, ~~he~~ they may request in writing a hearing before the City Council at a time and place to be set by the City



Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

- iii. Inform the person that in the event ~~he~~ they fails or neglects to correct the objectionable condition, the City will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case ~~he~~ they will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
- iv. In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for the hearing objections and the City Recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of the time and place at which they may appear and be heard. The hearing shall be heard within less than five (5) days from the date of service or mailing of the notice of hearing. (1977 Code § 10-351; 1998 Code)

B. HEARING:

1. Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the Nuisance Officer and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the Nuisance Officer.
2. Notice of Decision; Abatement By Owner Or Occupant: In the event the decision of the City Council upholds the determination of the Nuisance Officer, the notice originally given by the Nuisance Officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the Nuisance Officer.
3. Time Period for Compliance: In the event that the decision of the City Council either overrules or modifies the determination of the Nuisance Officer, the written decision of the City Council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified



- decision of the Nuisance Officer, unless additional time is authorized by the City Council.
4. Filing of Amended Notice: The nuisance Officer shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer. (1977 Code § 10-352)
- C. FAILURE TO COMPLY; ABATEMENT BY CITY: If any owner, occupant or other person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the Nuisance Officer shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the City. (1977 Code § 10-353)
- D. ITEMIZED STATEMENT: The Nuisance Officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property. (1977 Code § 10-353)
- E. FAILURE TO MAKE PAYMENT: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the City Treasurer within the twenty (20) days, the Nuisance Officer may either cause suit to be brought in an appropriate court of law or may refer the matter to the County Treasurer as provided in this Chapter. (1977 Code § 10-355)
- F. COLLECTION BY LAWSUIT: In the event collection of expenses of destruction and removal are pursued through the courts, the City shall sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law. (1977 Code § 10-356)
- G. COLLECTION THROUGH TAXES: In the event that the Nuisance Officer elects to refer the expenses of destruction or removal to the County Treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the County Treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage objects, or structures. Thereupon, the costs of the work shall be pursued by the County Treasurer in accordance with the provisions of Utah Code Annotated section 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. (1977 Code § 10-357)
- H. CRIMINAL PROCEEDING: The Commencement of criminal proceedings for the purpose of imposing penalties for violations of this Chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this Chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this Chapter. (1977 Code § 10-358)

I. PENALTY FOR FAILURE TO COMPLY:

1. Class C Misdemeanor: Any owner, occupant or person having an interest in property subject to this Chapter who shall fail to comply with the notice or order given pursuant to this Chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in Section 1-4-1 of this Code for each offense, and further sum of twenty-five dollars (\$25.00) for each and every day such failure to comply continues beyond the date fixed for compliance.
2. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this Chapter shall not be admissible in any criminal proceeding brought pursuant to this Section. (1977 Code § 10-359)





## CHAPTER 1

### NUISANCES

#### SECTION:

4-1-1: Nuisances Defined; Declaration

~~4-1-2: Nuisances on Property~~

~~4-1-3: Abatement Procedure~~

4-1-2: Noise

4-1-3: Smoke

4-1-4: Heat and Associated Glare

4-1-5: Vibrations

4-1-6: Fly Ash, Dust, Fumes, Vapors, Gases, and other Forms of Air Pollution

4-1-7: Liquid and Solid Wastes

4-1-8: Restrictions on Blocking Water

4-1-9: Nuisances on Property

4-1-10: Outdoor Storage of Personal Property

4-1-11: Nuisance Enforcement and Penalty

#### 4-1-1: NUISANCES DEFINED; DECLARATION:

A. DEFINITION: Pursuant to Utah Code 78B-6-1101. A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. ~~A nuisance may be the subject of an action. (Ordinance No 014-2008, 11/11/2008)~~ Providence City declares "Section 4, Chapter 1" applies to all properties within the Providence City Corporate limits.

B. AUTHOR DEFINED: Where a nuisance exists upon property and is the outgrowth of the ~~usual, natural, or necessary~~ activities conducted or use of the property, the owner or landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (1977 Code § 10-312)

C. DECLARATION OF NUISANCE: ~~Made, Permitted or Allowed:~~ Every act or condition made, permitted, allowed or continued in violation of Section 4-1-1 of this Chapter, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided. Included Nuisances: Nuisances include, but are not limited to:

1. ~~Befouling Culinary Water:~~ Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
2. ~~Privies, Cesspools, Septic Tanks:~~ Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a ~~menace~~ hazard to health, drain into waters

- used for culinary purposes, or a source of odors or contamination to air or water.
- ~~3. Garbage Containers, Offensive: Permitting any garbage container to remain on premises when it has become unclean and offensive.~~
  - ~~4. 3. Garbage Accumulation: Allowing vegetable organic waste, garbage, litter, filth or refuse of any nature kind to accumulate within or upon any private alley, yard, or area alley, street, except when it is temporarily placed for immediate removal, (within 24 hours).~~
  - ~~5. 4. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, kennel, pen, or coup or in any other building or area in which any where animals are kept, causing health and sanitation conditions to be detrimental to the animals health and welfare.~~
  - ~~6. 5. Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance and safety because of odors and bacteria, or in which flies or rodents breed.~~
  - ~~7. 6. Discharging Offensive Water or Liquid Waste: Discharging or placing any offensive water, chemical spray, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which, and as the a result of continued discharge, will render the place of discharge offensive or likely to become so.~~
  - ~~8. 7. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter except for authorized collection businesses wherein the collected waste is properly contained and sealed so as not to produce offensive odors.~~
  - ~~9. 8. Flies and Mosquitoes: Having or permitting upon any premises any fly or mosquito-producing condition. Failing to furnish any dwelling house unit, boarding house business, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.~~
  - ~~10. 9. Ablutions near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the City.~~
  - ~~11. 10. Boarding House or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition. Having or permitting upon any premises any fly or mosquito-producing condition.~~
  - ~~12. 11. Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the City. Permitting or performing any ablutions in or near any public drinking fountain.~~
  - ~~13. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.~~
  - ~~14. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream,~~



drainage, canal or basin, or any public park without first obtaining the written permission of the City Council. (1977 Code § 10-313)

- D. ~~ENUMERATION OF NUISANCES: The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this Chapter. (1977 Code § 10-314)~~
- E. ~~RESTROOM OR SEWER FACILITIES: All restroom or sewer facilities shall be constructed and maintained in accordance with Utah law and City ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed. (1977 Code § 10-315; 1998 Code)~~

4-1-2 Noise:

- A. At no point on the property line shall the sound level of any noise transmission exceed 70 dBA from 7:00 am to 10:00 pm and 55 dBA from 10:01 pm to 6:59 am. Sound levels shall be measured with a sound level meter that meets American National Standards Institute (ANSI) standard S1.4-1983 (R2006). Measurements shall be made using the "A weighted" filter of the sound level meter. Impulsive type noises shall be measured using an integrating meter that complies with ANSI standards and uses the same measurement procedures.
- B. Exceptions: Special events such as sports games, public celebrations, temporary noise due to construction activities, operation of landscape maintenance equipment/machinery, and craftsman/hobby activities which do not exceed two (2) cumulative hours per day may exceed the maximum dBA limits.
- a. When exceeding the maximum dBA it is the responsibility of the sound producer to insure the protection of persons being exposed to high noise levels by mitigating the risk using distance, sound absorption materials, or other suitable means.

4-1-3 Smoke:

- A. No emission of smoke from any source shall be permitted to exceed a greater density than that density described as #1 on the Ringlemann Smoke Chart. However, smoke may be emitted which is equal to but not darker than #2 on the Ringlemann Smoke Chart for not more than 4 minutes in any 30 minute period. For the purpose of grading the density of smoke, the Ringlemann Smoke Chart, as published by the U.S. Department of the Interior, Bureau of Mines, and as amended from time to time, shall be the standard.
- B. Smoke from outdoor recreational fires must be controlled so as not to engulf neighboring homes and properties. Nuisance complaints will favor the home(s) being affected by the smoke and any property damage associated with the smoke will be the responsibility of the smoke producer.
- C. The following materials cannot be burned within the city limits:
1. Rubber
  2. Plastics
  3. Composites containing polyester or epoxy resins
  4. Material which becomes toxic when burned or produces toxic gases



5. Railroad ties
6. Leaves and green yard clippings

4-1-4 Heat and Associated Glare:

- A. Any activity or process producing intense heat and associated glare shall be performed within an enclosure or blocked by obscuring fences, curtains, or tarps which sufficiently block the glare and stop heat transmission.
- B. Glare produced by solar collection devices must be controlled and contained within the property where such devices are located.

4-1-5 Vibrations:

- A. No vibration, which is originated from a process or operation on a parcel or property, shall be permitted which is discernible beyond the lot line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour of the day between the hours of 7:00 am and 7:00 pm. No nuisance vibrations are permitted from 7:01 pm and 6:59 am.
- B. Exception: Vibrations due to construction which are temporary in nature are permitted from 7:00 am to 7:00 pm and they may exceed the limitations stated in 4-1-5 (A).

4-1-6 Fly Ash, Dust, Fumes, Vapors, Gases, and other Forms of Air Pollution:

- A. No emission shall be permitted from any source whatsoever producing quantities of air contaminants or other materials which can cause damage to human or animal health, vegetation, or property.
- B. It is the responsibility of the producing property owner to contain such materials that in the event of adverse weather conditions stated contaminants will remain contained and prevented from distribution into the atmosphere.

4-1-7 Liquid and Solid Wastes:

- A. No materials deemed hazardous by the Utah Department of Environmental Quality, the United States Environmental Protection Agency, or any other body having jurisdiction, shall be discharged in a public or private sewage system, upon the ground, into a storm drain system, into an irrigation ditch or canal system, an open body of water, or in any other manner which would endanger the normal operation of the public or private water or sewage system, the storm drainage system, contaminate soil, or cause harm to any water aquifer.
- B. No person may construct or maintain a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse where the waste of drainage therefrom shall flow directly into the waters of any stream, well, or spring of water used for domestic purposes.
- C. All restroom and/or sewer facilities shall be constructed and maintained in accordance with Utah Law and City ordinances. All such facilities that do not comply with such provisions are hereby

declared to be a nuisance and are subject to abatement as herein described. (1977 Code 10-315, 1998 Code)

**F. 4-1-8 RESTRICTIONS ON BLOCKING WATER:**

1. ~~A. Obstructions:~~ It shall be unlawful for any person, **property owner, or contractor performing work on said property** to permit any drainage system, canal, ditch, ~~conduit~~ **culvert** or **any** other watercourse of any kind ~~or nature,~~ natural or artificial, to become so obstructed ~~as to cause causing~~ the water to back up and **/or** overflow there from, ~~or to become unsanitary.~~
2. ~~B. Subject to Abatement:~~ Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement. (1977 Code § 10-316) **Natural disasters resulting in blockage of water such as wind storms, heavy rain, excessive spring runoff, animals building dams, and any other naturally occurring condition requiring immediate resolution to protect life and property become the joint responsibility of emergency services provided by the City, canal and irrigation companies, and property owners.**
- C. **Property owners are responsible for curb and gutters bordering their properties to be kept clean and free of clutter such as leaves, grass clippings, dirt, or any other item that causes the blockage of natural water flow in the gutter.**

**4-1-2: NUISANCES ON PROPERTY:**

- A. ~~DEFINITION: For the purpose of this Section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:~~

1. ~~Lumber, junk, trash or debris.~~
2. ~~Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use. (1977 Code § 10-331; 1998 Code)~~

**Definitions: The following words, terms, and phrases, when used in this chapter shall have the following meanings:**

1. **Brush Pile:** An accumulation of cuttings or dead portions of tree limbs and shrubs not exceeding 3 inches in diameter and any length.
2. **Logs:** A tree trunk or limb with a diameter in excess of 3 inches and any length.
3. **Compost:** A mixture of decaying organic material used for the express purpose of fertilizing and conditioning soil.
4. **Owner or Occupant:** The owner of record or any agent or representative of such owner, and any person entitled, by lease or tenancy, to possession of the premises.
5. **Property Extensions:** The property which is accessible to the public and borders the owners property, whether or not improved or vacant, which includes all easements of



- record, the area to the center of an alley from property borders, and sidewalk, curb, gutter, and parking area of any street abutting property lines.
6. **Refuse:** Solid and liquid wastes, except hazardous wastes, decayable or non-decayable, combustible and non-combustible, organic and inorganic, wastes and materials commonly known as trash, garbage, debris and litter, paper products, ashes (no human or animal remains), cardboard, metal and plastic cans, yard clippings, glass, rags (clean or soiled), discarded clothing, and small electric appliance devices.
  7. **Animal Refuse:** Solid and liquid wastes produced from animals, which includes but is not limited to, animal entrails, feces, carcasses, rodents, and waste deposits from kennels, pens, or coops.
  8. **Fire Wood:** Wood gathered, cut and split, and stacked for the purpose of burning in fireplaces, stoves, brick ovens, or other devices designed for burning of wood.
  9. **Large Refuse:** Waste piles exceeding one (1) cubic yard and consisting of items defined under refuse (f), unusable tires, abandoned vehicles or parts thereof, scrap metal, scrap construction debris, scrap or nonfunctioning household furniture which is non-repairable and unused, and household appliances which are scrap and non-repairable,
  10. **Non-Functioning Vehicles:** A vehicle, (car, truck, boat, motorcycle, snow mobile, four wheeler, camper/camp trailer/motor home, or utility trailer), which may or may not be registered and is not currently operational, but is whole and complete, awaiting repairs to become operational.
  11. **Junk Vehicle:** A vehicle which has no salvage value except for metal recycle purposes and is in a condition which supports rodent infestation, presents a health and safety concern, has broken glass, parts missing, and will not move without being towed or trailered.
  12. **Project Vehicle:** A vehicle, (car, truck, boat, motorcycle, snow mobile, four wheeler, camper/camp trailer/motor home, or utility trailer), which is being rebuilt/reconstructed to running condition as a restoration or custom modified vehicle.
  13. **Visible Yard Areas:** The yard area from the most forward part of the building and the street which access the home or business.
  14. **Non-Visible Yard Areas:** Yard spaces on each side of the building and back yard starting from the most forward part of the building to the most rearward property line.
  15. **Concealed Storage:** Storage which is contained in a building having at least three (3) privacy walls, storage in a yard area protected by a fence providing 80% visual blockage, and anything stored in a back yard whether or not a privacy fence is provided. Natural or planted vegetation is a suitable alternate to a privacy fence, or any combination thereof, provided the 80% coverage is met.
  16. **Weed:** An aggressive non-native herbaceous plant detrimental to native plant communities or agricultural lands and any other type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.
  17. **Nuisance Officer:** The Providence City Nuisance Officer or a designated representative of the Nuisance Officer as approved by the City Council.



- B. ~~DUTY OF MAINTENANCE OF PRIVATE PROPERTY:~~ No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1977 Code § 10-332)
- C. An occupant of a residence may maintain a compost pile to facilitate decomposition of organic material, used for the express purpose of fertilizing soil, and shall be maintained to prevent it from becoming a nuisance by producing offensive odor, attracting insects, or animals.
- ~~D. 4-1-10 Outdoor Storage of Personal Property: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) within the City is hereby declared to be a nuisance and dangerous to the public safety. (1977 Code § 10-333)~~
- A. No person may store refuse, as defined in 4-1-9, which becomes hazardous, produces odor, or presents a health or safety concern, whether in sheltered storage or not, to persons or property. Storage of items for a recycling program is permitted so long as containers are emptied no less than at thirty (30) day intervals and the containers are kept clean and odor free, and are stored in a back or side yard area.
- B. No person may store large refuse, as defined in 4-1-9, unless it is in a back yard and protected from view from persons on a public sidewalk, or public street. Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.
- C. For the purpose of having a yard sale, items of personal property may be displayed in a front yard visible to the public from 6:00 am until 7:00 pm, thereafter all items of personal property, excluding vehicles, must be removed from the front yard of the property.
- D. Operational vehicles for sale may be displayed in full view of the public so long as they are currently registered and operational. Non-functioning vehicles, defined in 4-1-9, may also be displayed in a driveway, for sale, but not parked on the street.
- E. Junk vehicles, as defined in 4-1-9, must be stored in a back yard out of the visibility of the public on a public sidewalk or street, behind a privacy fence if stored in a side yard, and never stored in a front yard area. No more than three (3) junk vehicles may be stored on a parcel of property at any one time. Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals

into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.

- F. Project vehicles, as defined in 4-1-9, must be stored in a back yard out of the visibility of the public on a public sidewalk or public street, behind a privacy fence if stored in a side yard or covered with a tight fitting cover if stored in a side yard without a privacy fence, and never stored in a front yard area unless it is in a driveway completely covered with a tight fitting cover, and has no fluids dripping from the vehicle. No more than one (1) project vehicle is allowed in a front or side yard area and no more than three (3) project vehicles are allowed if stored in a back yard area. The cumulative total of project vehicles stored outside is three (3). Storage of such items may not become hazardous to persons or property, create a breeding ground for rodents and insects, contain hazardous waste, allow drainage of chemicals into the soil under the stored items, become a fire hazard, produce offensive odors, or other deleterious condition.
- G. Removal of personal property: The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offence shall be deemed committed on each day during on or which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Chapter. No person, after abatement notification has been given, shall move the inoperable motor vehicle in question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.
- H. Abatement by Owners: The owner, owners, tenants, lessees or occupants of any lot within the City on which such "storage", as defined in Section 4-1-2-3 of this Chapter, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City.
- E. ABATEMENT BY OWNERS: The owner, owners, tenants, lessees or occupants of any lot within the City on which such "storage", as defined in Section 4-1-2-3 of this Chapter, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City. (1977 Code § 10-334)

**4-1-3 11: ABATEMENT PROCEDURE:**

- A. APPOINTMENT AND DUTIES OF NUISANCE OFFICER:



1. Appointment: There is hereby established the position of Nuisance Officer whose duties shall be to enforce the provisions of this Chapter. Until another person is designated, the contracted law enforcement agency shall enforce the provisions of this Chapter. More than one person may be appointed to act as Nuisance Officer under this Section.
2. Duties: The Nuisance Officer is authorized to:
  - a. Perform all functions necessary to enforce the provisions of this Chapter.
  - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this Chapter.
3. Existence of Objectionable Condition: If ~~he~~ **the Nuisance Officer** concludes there exists an objectionable condition in violations of this Chapter, the Nuisance Officer shall
  - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
  - b. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the County Assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the Nuisance Officer may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the Nuisance Officer following the date of service of such notice, to correct the objectionable condition. The notice shall:
    - i. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
    - ii. Inform the owner, occupant or other person that in the event ~~he~~ **they** disagrees with the determination of the Nuisance Officer and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, ~~he~~ **they** may request in writing a hearing before the City Council at a time and place to be set by the City Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.
    - iii. Inform the person that in the event ~~he~~ **they** fails or neglects to correct the objectionable condition, the City will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case ~~he~~ **they** will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
    - iv. In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for the hearing objections and the City Recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of



the time and place at which they may appear and be heard. The hearing shall be heard within less than five (5) days from the date of service or mailing of the notice of hearing. (1977 Code § 10-351; 1998 Code)

B. HEARING:

1. Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the Nuisance Officer and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the Nuisance Officer.
2. Notice of Decision; Abatement By Owner Or Occupant: In the event the decision of the City Council upholds the determination of the Nuisance Officer, the notice originally given by the Nuisance Officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the Nuisance Officer.
3. Time Period for Compliance: In the event that the decision of the City Council either overrules or modifies the determination of the Nuisance Officer, the written decision of the City Council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the Nuisance Officer, unless additional time is authorized by the City Council.
4. Filing of Amended Notice: The nuisance Officer shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer. (1977 Code § 10-352)

C. FAILURE TO COMPLY; ABATEMENT BY CITY: If any owner, occupant or other person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the Nuisance Officer shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the City. (1977 Code § 10-353)

D. ITEMIZED STATEMENT: The Nuisance Officer shall prepare an itemized statement of all

expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property. (1977 Code § 10-353)

- E. **FAILURE TO MAKE PAYMENT:** In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the City Treasurer within the twenty (20) days, the Nuisance Officer may either cause suit to be brought in an appropriate court of law or may refer the matter to the County Treasurer as provided in this Chapter. (1977 Code § 10-355)
- F. **COLLECTION BY LAWSUIT:** In the event collection of expenses of destruction and removal are pursued through the courts, the City shall sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law. (1977 Code § 10-356)
- G. **COLLECTION THROUGH TAXES:** In the event that the Nuisance Officer elects to refer the expenses of destruction or removal to the County Treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the County Treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage objects, or structures. Thereupon, the costs of the work shall be pursued by the County Treasurer in accordance with the provisions of Utah Code Annotated section 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. (1977 Code § 10-357)
- H. **CRIMINAL PROCEEDING:** The Commencement of criminal proceedings for the purpose of imposing penalties for violations of this Chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this Chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this Chapter. (1977 Code § 10-358)
- I. **PENALTY FOR FAILURE TO COMPLY:**
  - 1. **Class C Misdemeanor:** Any owner, occupant or person having an interest in property subject to this Chapter who shall fail to comply with the notice or order given pursuant to this Chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in Section 1-4-1 of this Code for each offense, and further sum of twenty-five dollars (\$25.00) for each and every day such failure to comply continues beyond the date fixed for compliance.
  - 2. **Criminal Proceedings:** Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this Chapter shall not be admissible in any criminal proceeding brought pursuant to

this Section. (1977 Code § 10-359)

DRAFT



## CHAPTER 1

### NUISANCES

#### SECTION:

- 4-1-1: Nuisances Defined; ~~Declaration.~~
- 4-1-2: ~~Nuisances on Property~~Responsibility for Nuisances.
- 4-1-3: Maintenance of Nuisance Prohibited; Enumeration of Nuisances.
- 4-1-~~4~~3: Abatement Procedure

#### 4-1-1: NUISANCES DEFINED; ~~DECLARATION:~~

A. ~~DEFINITION:~~ Pursuant to Utah Code 78B-6-1101. A

For purposes of this chapter, a nuisance is anything which occurs within the city and meets any one or more of the following definitions:

1. Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. ~~A nuisance may be the subject of an action. (Ordinance No 014-2008, 11/11/2008)~~
2. Any item, thing, manner, or conditions whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.
3. Anything which (a) annoys, injures, or endangers the comfort, repose, health, or safety of others; or (b) offends the public decency; or (c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or (d) in any way renders other persons insecure in life or in the use of property.
4. Any condition or use of property or premises or of building exteriors which are deleterious, injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following: (1) Lumber, junk, trash or debris; (2) Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use.
5. Every other offensive situation, conduct or activity specifically enumerated elsewhere herein, including, but not limited to, those enumerated in Section 4-1-3, below.

Formatted: Indent: First line: 0"

Formatted: Indent: Left: 0.5"

#### ~~B. 4-1-2:-~~ RESPONSIBILITY FOR NUISANCES. AUTHOR DEFINED:

Where a nuisance exists upon property ~~and is the outgrowth of the usual, natural, or necessary use of the property, the property owner,~~ the landlord ~~and/or~~ his agent, the tenant ~~and/or~~ his agent, any person who causes, creates, contributes to, supports or permits a nuisance to occur or remain upon property, and any and all other persons having control, use, and/or occupation of the property on which such nuisance exists ~~shall be deemed to be the authors thereof and shall be equally liable and responsible therefore.~~ In cases where there are more than one

Formatted: Indent: First line: 0"

Formatted: Indent: First line: 0"

responsible persons, the city may proceed against one, some, or all of them. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (1977 Code § 10-312)

C.4-1-3: DECLARATION OF NUISANCE; ENUMERATION OF NUISANCES: Made, Permitted or Allowed:

A. Every act or condition made, permitted, allowed or continued in violation of that falls within the definition of nuisance as provided in Section 4-1-1 of this Chapter, is hereby declared to be a nuisance and may be abated and, punished, and remedied as hereinafter provided. Included Nuisances: Nuisances include, but are not limited to:

B. Every situation, conduct or activity specifically enumerated and listed below constitutes a nuisance and may be abated pursuant to this ordinance (the listed examples are not exhaustive; a situation, conduct, or activity not listed below, but that falls within the definition of nuisance, shall also constitute a nuisance):

1. Befouling Culinary Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
2. Privies, Cesspools, Septic Tanks: Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors or contamination to air or water.
3. Garbage Containers, Offensive: Permitting any garbage container to remain on premises when it has become unclean and offensive. The leaving of any garbage can or refuse container in the street other than on collection day, or for more than 12 hours before or after collection day.
4. Garbage-Accumulation of Junk: Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon the property, or any private alley, yard or area. This includes the accumulation of used or damaged lumber; junk; scrap metal; machinery or machinery parts; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, boxes, barrels, bottles, cans, containers, cabinets, refrigerators, or other fixtures, equipment, products, or personal property stored so as to be visible from a public street, alley, or adjoining property.
5. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, kennel, or in any other building or area in which any animals are kept.
6. Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
7. Discharging Offensive Water or Liquid Waste: Discharging or placing any offensive water, chemical spray, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which, as the result

Formatted: Indent: First line: 0"



of continued discharge, will render the place of discharge offensive or likely to become so.

8. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.
9. Flies and Mosquitoes: Having or permitting upon any premises any fly or mosquito-producing condition.
10. Ablutions near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.
11. Boarding House or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.
12. Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the City.
13. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
14. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the City Council. ~~(1977 Code § 10-313)~~
15. Offensive Condition or Refuse: Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property, or the keeping or storing of any refuse or waste matter which is visible from a public street, alley, or adjoining property, and whenever there is found any garbage, junk, used materials and merchandise, waste, inoperable motor vehicles, trash, rank and noxious weeds, or other unsightly or deleterious objects or conditions that are offensive to the order and economy of the city.
16. Outdoor Storage of Personal Property: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) that is visible from a public right-of-way, public street, sidewalk, or alley within the City is hereby declared to be a nuisance and dangerous to the public safety.
17. Outdoor furniture. Keeping furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to passersby in the public right-of-way, public street, sidewalk, or alley (for more than two (2) days in any six-month period). This shall include, but not be limited to, the placement, use, keeping, storage, or maintaining any furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way, public street, sidewalk or alley, and no owner, landlord, property manager, tenant, or other occupant shall permit any such activity to occur on property owned or managed by such person.

Formatted: Indent: Left: 0.5"



18. Unsheltered Inoperable Motor Vehicle. The unsheltered storage of an inoperable motor vehicle for sixty (60) days or more on private property in a manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way.

a. Exceptions. This restriction does not apply to any person who is conducting an automobile sales, storage, or repair enterprise operated in compliance with existing zoning regulations and other applicable law, when the storage is necessary to the operation of such business' enterprise.

Further, this restriction does not apply to an inoperable motor vehicle located in a garage or other fully enclosed building or placed behind screening of sufficient size, strength and density, such as a solid fence, to screen it from public view of a person standing upon any public street, alley, sidewalk, or right-of-way.

Formatted: Indent: Left: 1.5", First line: 0"

19. Improper Accumulations. Accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or adjoining property.

Formatted: Indent: Hanging: 1"

20. Improper Maintenance. Buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair.

21. Dangerous Conditions. Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any excavation, hole, well, pit, basement, cellar; or any land, lot, or yard which, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any harm, inconvenience, discomfort, damage, or injury to the public or to any one or more individuals.

**DC.** ENUMERATION OF NUISANCES: The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this Chapter. (1977 Code § 10-314)

**ED.** RESTROOM OR SEWER FACILITIES: All restroom or sewer facilities shall be constructed and maintained in accordance with Utah law and City ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed. (1977 Code § 10-315; 1998 Code)

**FE.** RESTRICTIONS ON BLOCKING WATER:

1. Obstructions: It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow there from, or to become unsanitary.
2. Subject to Abatement: Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement. (1977 Code § 10-316)

Formatted: Indent: Left: 0", First line: 0"

**F.** GENERAL DUTY OF MAINTENANCE OF PRIVATE PROPERTY: No person owning, leasing, occupying

or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. The failure of a person owning, leasing, occupying or having charge of any premises to comply with such general duty of maintenance is a nuisance that may be abated under this chapter. In connection herewith, a person owning, leasing, occupying or having charge of any premises, is subject to the following:

1. No owner or occupant of any premises which are adjacent to any portion of a ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.
2. An occupant of a residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained to prevent putrefying or attracting insects or animals, as such shall constitute a nuisance hereunder.

G. PUBLIC NUISANCES NOT EXEMPT. Nothing in this Section shall be construed to permit activities, conditions, or situations that would constitute a public nuisance or would otherwise be unlawful under applicable law absent the existence of this Section. Furthermore, nothing in this Section shall be construed to limit the city's rights and remedies to deal with public nuisances under applicable law.

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0", First line: 0"

#### 4-1-2: NUISANCES ON PROPERTY:

A. DEFINITION: For the purpose of this Section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

1. Lumber, junk, trash or debris.
2. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use. (1977 Code § 10-331; 1998 Code)

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5",  
No bullets or numbering

B. WORDS, TERMS AND PHRASES: The following words, terms and phrases, when used in this Chapter, shall have the meanings:

Brush Pile                      An accumulation of cuttings or dead portions of trees and shrubs.

Formatted: Indent: Left: 0", Hanging: 0.5"

Nuisance Officer              The Providence City Nuisance Officer or a designated representative of the Nuisance Officer.

Comment [U1]: Has a nuisance officer been appointed? When we were dealing with this before there was no "nuisance officer."

Formatted: Indent: Left: 0", Hanging: 0.5"



<b>Compost</b>	A mixture consisting of decayed organic matter used for fertilizing and conditioning soil.
<b>Ditch</b>	Any channel, either man-made or natural, to carry water for drainage or irrigation, including its access and/or maintenance easement on either side.
<b>Owner or Occupant</b>	The owner of record or any agent or representative of such owner and any person entitled, by lease or tenancy, to possession of the premises.
<b>Property</b>	In addition to the owner's lot or tract of land whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easement of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.
<b>Refuse</b>	Solid and liquid wastes, except hazardous wastes, whether decayable or non-decayable, combustible, or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width, or breadth.
<b>Rubbish</b>	Non-decayable solid wastes of a large size, including but not limited to large pieces of wood, large cardboard boxes or parts, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition material, used lumber and other discarded or stored objects three (3) feet or more in length, width, or breadth.
<b>Unsheltered</b>	Located outside a garage or other building in such a

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"



manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way.

**Weed**

An aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands and any other type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.

Formatted: Indent: Left: 0", Hanging: 0.5"

**Yard**

The open space between buildings and property lines at the front, rear, and sides of a property.

Formatted: Indent: Left: 0", Hanging: 0.5"

- C. **DUTY OF MAINTENANCE OF PRIVATE PROPERTY:** No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1977 Code § 10-332)

1. No owner or occupant of any premises which are adjacent to any portion of a ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.
2. An occupant of a residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained to prevent it becoming a nuisance by putrefying or attracting insects or animals.

Formatted: Indent: Left: 0"

- D. **OUTDOOR STORAGE OF PERSONAL PROPERTY:** Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) that is visible from a public right of way, public street, sidewalk, or alley within the City is hereby declared to be a nuisance and dangerous to the public safety. (1977 Code § 10-333)

1. **Outdoor furniture restrictions.** Keeping upholstered furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to passersby in the public right of way, public street, sidewalk, or alley is hereby declared to be a nuisance. Accordingly, no person shall place, use, keep, store or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right of way, public street, sidewalk or alley, and no property manager shall knowingly permit any such activity to occur on property owned or managed by such person. The following shall constitute specific defenses to any alleged violation of this Section:
  - a. That such furniture was placed in the location in question in order to allow it to be

Formatted: Indent: Left: 0.5"

~~moved during a move of a resident or residents of the premises or has been removed as part of a trash or recycling program on a day scheduled for such moving or removal.~~

~~b. That such furniture was temporarily placed in the location in question in order that it be offered for sale at a yard or garage sale if each of the following conditions exists: provided, however, that this defense shall not apply if upholstered furniture is located in an outside location for more than two (2) days in any six month period.~~

~~c. The furniture is located in an outside location only between the hours of 7:00 a.m. and 5:00 p.m.;~~

~~d. The person attempting to sell the furniture, or that person's agent, is outside during the period of the yard or garage sale in order to monitor the sale; and~~

~~e. A sign is placed on or near the furniture indicating that it is for sale.~~

~~2. Unsheltered inoperable motor vehicle prohibited. The unsheltered storage of an inoperable motor vehicle for sixty (60) days or more on private property in a manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way is prohibited. The inoperable motor vehicle, shall be located in a garage or other fully enclosed building or placed behind screening of sufficient size, strength and density, such as a solid fence, trees or shrubbery to screen it from public view of a person standing upon any public street, alley, sidewalk, or right-of-way.~~

~~a. Exceptions. This Section does not apply to any person who is conducting an automobile sales, storage, or repair enterprise operated in compliance with existing zoning regulations, when the storage is necessary to the operation of such business enterprise. These exceptions for certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this Chapter.~~

~~b. Public nuisances not exempt. Nothing in this Section shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Chapter, including without limitation allowing the accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks, or supports or explosion hazard.~~

~~c. Removal. The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offence shall be deemed committed on each day during or on which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Chapter. No person, after abatement notification has been given, shall move the inoperable motor vehicle in question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.~~

~~E. ABATEMENT BY OWNERS: The owner, owners, tenants, lessees or occupants of any lot within the City on which such "storage", as defined in Section 4-1-2-3 of this Chapter, is made, and also~~

Formatted: Indent: Left: 0.5"

Comment [U2]: Can we charge person with Class C for violating nuisance ordinance? I do not think so.



~~the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City. (1977 Code § 10-334)~~

4-1-34: ~~ABATEMENT PROCEDURE:~~

A. APPOINTMENT AND DUTIES OF ~~NUISANCE OFFICER~~/CITY DESIGNEE:

Comment [U3]: Have we appointed Nuisance Officer?

1. Appointment: There is hereby established the position of Nuisance Officer whose duties shall be to enforce the provisions of this Chapter. ~~Until another person is designated~~If there is no appointed Nuisance Officer serving, the contracted law enforcement agency, ~~or other designee~~ shall ~~administer and~~ enforce the provisions of this Chapter. More than one person may be appointed to act as Nuisance Officer ~~or the city designated representative~~ under this Section. ~~In case of nuisances involving dangerous buildings or violations of codes this ordinance may be administered and enforced by the city's community development department.~~
2. Duties: The Nuisance Officer ~~and/or the city designated representative~~ is authorized to:
  - a. Perform all functions necessary to enforce the provisions of this Chapter.
  - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this Chapter.
3. Existence of ~~Objectionable Condition~~Nuisance: If ~~he the Nuisance Officer the city designated representative~~ concludes there exists an objectionable condition ~~constituting a nuisance~~ in violations of this Chapter, the ~~city designated representative Nuisance Officer~~ shall
  - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
  - b. Serve notice in writing upon the owner, ~~and~~ occupant, ~~or responsible person~~ of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the County Assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate, ~~or~~ destroy, ~~remedy~~, and/or remove the nuisance within such time as the ~~city designated representative Nuisance Officer~~ may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the ~~city designated representative Nuisance Officer~~ following the date of service of such notice, to correct the objectionable condition. The notice shall:
    - i. Contain the name and address of the responsible person(s).
    - ii. Contain a specific statement of the nature of the nuisance violation and generally describe the premises on which the violation exists.
    - iii. Inform the owner, occupant or other responsible person that in the event ~~he or she disagrees~~ he they disagrees with the determination of



the city designated representative Nuisance Officer and does not wish or intend to comply with the provisions of the notice, or that he or she objects to the factual or legal basis for the notice, he ~~they~~ he or she may request in writing a hearing before the City Council at a time and place to be set by the City Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

~~iii.~~ iv. Inform the responsible person of the required corrective action to abate the nuisance.

v. Inform the responsible person that in the event he or she fails ~~he they fails~~ or neglects to correct the objectionable condition, the City will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he or she ~~he they~~ will be assessed such removal and destruction costs, together with reasonable administrative costs, and reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.

~~iv. In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for the hearing objections and the City Recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of the time and place at which they may appear and be heard. The hearing shall be heard within less than five (5) days from the date of service or mailing of the notice of hearing. (1977 Code § 10-351; 1998 Code)~~

B. HEARING:

1. Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects, or other nuisance from the property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the city designated representative Nuisance Officer and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the city designated representative Nuisance Officer.
2. Notice of Decision; Abatement By Owner Or Occupant: In the event the decision of the City Council upholds the determination of the city designated representative Nuisance Officer, the notice originally given by the city designated representative Nuisance Officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten

(10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the city designated representative Nuisance Officer.

3. Time Period for Compliance: In the event that the decision of the City Council either overrules or modifies the determination of the city designated representative Nuisance Officer, the written decision of the City Council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the city designated representative Nuisance Officer, unless additional time is authorized by the City Council.
4. Filing of Amended Notice: The city designated representative nuisance Officer shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer. (1977 Code § 10-352)

C. FAILURE TO COMPLY; ABATEMENT BY CITY: If any owner, occupant or other responsible person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such nuisance, weeds, garbage, refuse, objects or structures, the city may enter upon the subject property and may remove or correct the condition which is subject to the abatement. The city designated representative Nuisance Officer shall, at the expense of the city, employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed by the city at the expense of the City. (1977 Code § 10-353)

D. ITEMIZED STATEMENT: The city designated representative Nuisance Officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, ~~or~~ to persons having an interest in the property, or other responsible persons, demanding payment within twenty-three (23) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property. (1977 Code § 10-353) The itemized statement shall include the address of the subject property; an itemized list of and demand for payment for all expenses, including administrative and incidental expenses, of correcting or abating the nuisance; the address of the municipal treasurer where payment may be made for the expenses; and notification to the property owner that failure to pay the expenses may result in a lien on the property, that the owner may file a written objection to all or part of the statement within 20 days after the date of mailing (such hearing to be conducted in accordance with Utah Code Ann. § 10-11-3), and the location where the owner may file the objection, including the municipal office and address.

E. FAILURE TO MAKE PAYMENT: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the City Treasurer within the twenty-three (2030) days, the city designated representative Nuisance Officer may either cause suit to be brought in an appropriate court of law or may refer the



matter to the County Treasurer as provided in this Chapter. ~~(1977 Code § 10-355)~~

- F. COLLECTION BY LAWSUIT: In the event collection of expenses of destruction and removal are pursued through the courts, the city may sue and shall be entitled to City shall sue and receive judgment for all of said expenses of destruction and removal, including administrative costs, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law. ~~(1977 Code § 10-356)~~
- G. COLLECTION THROUGH TAXES: In the event that the city designated representative Nuisance Officer elects to refer the expenses of destruction or removal to the County Treasurer as a lien against the subject property for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement certify the past due costs and expenses to the county treasurer in accordance with Utah Code Ann. § 10-11-4 to the County Treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage objects, or structures. Thereupon, the costs of the work shall be pursued by the County Treasurer in accordance with the provisions of Utah Code ~~Annotated~~ Ann. section §§ 10-11-3 to 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. ~~(1977 Code § 10-357)~~
- H. CRIMINAL PROCEEDING: The Commencement of criminal proceedings for the purpose of imposing penalties for violations of this Chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this Chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this Chapter. (1977 Code § 10-358)
- I. PENALTY FOR FAILURE TO COMPLY:
1. Class C Misdemeanor and Monetary Fine: Any owner, occupant or person having an interest in property subject to this Chapter who shall fail to comply with the notice or order given pursuant to this Chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in Section 1-4-1 of this Code for each offense, and further sum of twenty-five dollars (\$25.00) for each and every day such failure to comply continues beyond the date fixed for compliance.
  2. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this Chapter shall not be admissible in any criminal proceeding brought pursuant to this Section. (1977 Code § 10-359)
- J. NON-EXCLUSIVE REMEDIES: Notwithstanding anything contained herein to the contrary, the city may proceed pursuant to Utah Code Ann. § 10-11-1 et seq. without complying with any of the provisions of this chapter. In addition, the city may take any or all of the above-mentioned remedies (administrative, civil, or criminal) to abate a nuisance and/or to punish any person or entity who creates, causes, or allows a nuisance to exist. The abatement of a nuisance does not

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"



prejudice the right of the city or any person to recover damages or penalties for its past existence.

DRAFT

